

# CANTON ZONING BY-LAWS

## SECTION 1.0 PURPOSE AND AUTHORITY

### 1.1 TITLE

This By-law shall be known as the "Zoning By-law of the Town of Canton, Massachusetts," hereinafter referred to as "this By-law."

**1.2 PURPOSE.** These regulations are enacted to promote the general welfare of the Town of Canton, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

**1.3 AUTHORITY.** This Zoning By-Law is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.4 APPLICABILITY.** The use, construction, repair, alteration, height, location, percentage of lot coverage by buildings and structures and the use of land in the Town of Canton are hereby restricted and regulated as herein provided. No building, structure or land shall be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the regulations of this By-Law, except those already lawfully existing as provided below.

**1.4.1 Applicability; Non-conformities.** Except as herein after provided, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the non-conforming nature of said structure.

**1.4.2 Commencement of Construction or Operation.** Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw, unless the use or construction is commenced within a period of not more than

six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

## **1.5 OTHER LAWS**

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.

## **1.6 AMENDMENT**

**1.6.1 Town Meeting.** This Bylaw may be amended from time to time in an Annual or Special Town Meeting in accordance with G.L. c. 40A, s. 5.

**1.6.2 Public Hearing.** No zoning bylaw or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon for which a notice has been published, posted and mailed as provided in G.L. c. 40A, s. 5 and has made a report with recommendations to the town meeting or after 21 days shall have lapsed after such hearing without submission of such report.

**1.6.3 Two Years.** No proposed bylaw making a change in any existing zoning bylaw which has been unfavorably acted upon by a town meeting shall be considered on its merits by the town meeting within two years after the date of such unfavorable action unless the adoption of such proposed bylaw was recommended in the report of the Planning Board.

**1.6.4 Petition to Amend.** A descriptive plot plan shall accompany all petitions to amend this By-Law as to proposed changes to district boundary lines as shown on the zoning map. Such plan shall be filed with the Town Clerk, and a duplicate copy of such plan shall be filed with the Planning Board. The plan shall be drawn to show clearly the following information:

1. The metes and bounds of the site;
2. All streets and other reference marks;
3. All abutting lots, including the names and addresses of the present owners;
4. Any buildings or structures on the site; and
5. All easements or other restrictions on the site.

Except where the petitioner is the Town or its agent, the plan shall be prepared by a registered land surveyor, and his official stamp or seal shall be affixed to the plan.

**1.7 SEVERABILITY**

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

## **SECTION 2.0            DISTRICTS**

### **2.1    ESTABLISHMENT**

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

#### *RESIDENCE DISTRICTS*

Single Residence Districts

Single Residence AA District  
Single Residence A District  
Single Residence B District  
Single Residence C District

General Residence District

#### *BUSINESS DISTRICTS*

Business District

Central Business District

#### *INDUSTRIAL DISTRICTS*

Limited Industrial District  
Limited Industrial (B)  
Limited Industrial (C)  
Industrial District

#### *OTHER DISTRICTS*

Parkland and Open Space

### **2.2    OVERLAY AND SPECIAL DISTRICTS**

In addition to the districts set forth above, the following overlay and special districts are also established in Section 9.0

Flood Plain Overlay District	FPOD
Groundwater Protection Overlay District	GPOD

Economic Opportunity Overlay District	EEOD
Mixed Use Overlay District	MUOD
Hotel Overlay District	HOD
Village Housing Overlay District	VHOD

**2.3 ZONING MAP.** 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.

**2.4 BOUNDARIES OF DISTRICTS.** The location of the boundary lines of the districts shown upon the aforesaid map shall be determined as follows:

**2.4.1 Property Line.** 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.

**2.4.2 Street, Rail or Utility Line.** 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.

**2.4.3 Parallel.** 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).

**2.4.4 Other.** 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.

**2.5 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.

## **SECTION 3.0 USE REGULATIONS**

### **3.1 PRINCIPAL USES**

**3.1.1 General.** 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.

**3.1.2 Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

Y	-	Permitted as of right
N	-	Prohibited
BA	-	Special Permit/Board of Appeals
PB	-	Special Permit/Planning Board
SB	-	Special Permit/Selectboard

**3.1.3 If Classified Under More than One Use.** Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

**3.1.4 Table of Use Regulations.** The Table of Use Regulations shall be as follows:

**SEE ATTACHMENT A**

### **3.2 ACCESSORY USES**

**3.2.1 General.** Uses customarily incidental to permitted uses are permitted as accessory uses in all districts. The following specific accessory uses are also permitted as set forth in the Table of Uses Regulations.

**3.2.2 Home Occupation; Non-intensive.** A home occupation shall be subject to the following requirements.

1. Not more than one person other than residents of the premises is regularly employed thereon in connection with such use.

2. No trading in merchandise is regularly carried on.
3. No external change is made which alters the residential the buildings on the premises appearance of.
4. 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).

**3.2.3 Home Occupation; Intensive.** The use of a portion of a dwellings or of a building accessory thereto by a resident of the premises in connection with the conduct of a profession or customary home occupation 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 subject to the following requirements.

1. Such use does not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property.
2. No external change is made which alters the residential appearance of the buildings on the premises.
3. There is no outside display of goods or products, storage of materials or equipment, or regular outside parking of commercial vehicles.

**3.2.4 Light Manufacturing in the Business District.** Light manufacturing is permitted as an accessory use in the Business District, as is usual in connection therewith, subject to the condition that:

1. Such manufacturing does not occupy an area exceeding fifty (50) percent of the total floor area occupied by the main use.
2. The major portion of any products manufactured are to be sold at retail on the premises.
3. Not more than five (5) operators are regularly employed in such manufacturing.

**3.2.5 Accessory Uses in the Limited Industrial District.** The following accessory uses are permitted in the Limited Industrial District.

1. Quarters for necessary caretakers and watchmen.
2. Quarters for the transient accommodation of business visitors.
3. Restaurant facilities for and sale of items to, and for the personal convenience of employees.
4. Display and sale of products of manufacturing activities on the premises.

**3.2.6 Accessory Scientific Uses.** 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 Zoning Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

### **3.3 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).

## **SECTION 4.0 DIMENSIONAL REQUIREMENTS**

### **4.1 GENERAL**

**4.1.1 Compliance Required.** In each district, no land shall hereafter be used, occupied or changed and no structure or building shall hereafter be erected, altered, moved or used or occupied unless it complies with the provisions set forth in the Table of Dimensional Requirements, except as provided in G.L. c. 40A, s. 6 for non-conforming circumstances. Variations and exceptions from these minimum requirements may be specifically provided elsewhere in this By-law.

**4.1.2 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.



**4.1.3 Limitation on Dwellings.** Not more than one building constructed as a dwelling, or so used, shall be located on any lot except that a multifamily dwelling may, subject to the conditions of a special permit, be authorized to consist of more than one building on a lot. See Section 8.2.

**4.1.4 Table of Dimensional Requirements – Residence Districts**

<b>REQUIRED</b>	<b>SRAA</b>	<b>SRA</b>	<b>SRB</b>	<b>SRC</b>	<b>GR</b>
<i>Min. Lot Size (sq. ft.)</i>	45,000	30,000	15,000	10,000	10,000
<i>Min. Non-wetland Area (sq. ft.)</i>	30,000	20,000	12,000	7,500	7,500
<i>Lot Width(through the principal dwelling)</i>	200’	150’	115’	100’	100’
<i>Frontage and frontage lot width (ft.)</i>	125’	100’	100’	100’	100’
<i>Lot Coverage (%)</i>	25	25	25	25	30
<i>Front Yard Setbacks</i>	60’	40’ <sup>1</sup>	30’ <sup>1</sup>	30’ <sup>1</sup>	30’ <sup>1</sup>
<i>Rear Yard Setbacks</i>	35’	35’	35’	35’ <sup>2</sup>	35’ <sup>2</sup>
<i>Side Yard Setbacks</i>	40’	20’	15’	10’	10’
<i>Accessory Structure Rear Yard Setbacks</i>	12’ <sup>3</sup>	6’ <sup>4</sup>	3’ <sup>5</sup>	3’ <sup>5</sup>	3’ <sup>5</sup>
<i>Accessory Structure Side Yard Structure</i>	12’ <sup>3</sup>	6’ <sup>4</sup>	3’ <sup>5</sup>	3’ <sup>5</sup>	3’ <sup>5</sup>

<sup>1</sup>60’ for properties along Turnpike Street

<sup>2</sup>25’ for enclosed single-story porch

<sup>3</sup>For buildings with a height of <15’ and a setback of at least 200’

<sup>4</sup>For buildings with a height of <15’ and a setback of at least 150’

<sup>5</sup>For buildings with a height of <15’ and a setback of at least 100’

**4.1.5 Table of Dimensional Requirements - Nonresidential Districts**

<b>REQUIRED</b>	<b>B</b>	<b>LI</b>	<b>I</b>
<i>Min. Lot Size</i>		1.5 acres	

<i>Lot Width(through the principal building)</i>		200'	
<i>Frontage and frontage lot width (ft.)</i>		100'	100'
<i>Lot Coverage (%)</i>	90	40	50
<i>Front Yard Setbacks</i>	25' <sup>1</sup>	60'	60'
<i>Rear Yard Setbacks</i>	6' <sup>6</sup>	25' <sup>7,8</sup>	10' <sup>7,8</sup>
<i>Side Yard Setbacks</i>	6'	25' <sup>7</sup>	20' <sup>7,8</sup>
<i>Accessory Structure Rear Yard Setbacks</i>	3' <sup>9</sup>	3' <sup>9</sup>	3' <sup>9</sup>
<i>Accessory Structure Side Yard Setbacks</i>	3' <sup>9</sup>	3' <sup>9</sup>	3' <sup>9</sup>

(Footnotes 1 through 5 are found in Section 4.1.4)

<sup>6</sup> 20' for residential buildings

<sup>7</sup> 35' when rear property line abuts residential district or a lot with a residential building as the primary structure

<sup>8</sup> 35' if side yard abuts a railroad right-of-way

<sup>9</sup> Only for accessory structures less than 15' in height

**4.1.6 Notes to Tables of Dimensional Requirements.** The following notes shall be construed as requirements of this By-Law.

1. Computation of Non-Wetland Area. 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.

2. Dwellings in Business Districts - Area Required. In a Business District, no building shall be constructed or used as a dwelling 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).

3. Residential Accessory Structures.

a. Permitted and required accessory uses to residential properties shall be on the same lot of record as the principal use to which they are necessary and

- shall be such as not to alter the character of the premises on which it is located.
- b. On lots less than three acres, no freestanding residential accessory building shall occupy part of the required Front Yard.
  - c. In no case shall an accessory structure be allowed that is larger in size or height than the principal building.
  - d. See the Table of Dimensional Requirements – Residence Districts for rear and side setbacks (Section 4.1.4)
  - e. Residential accessory building size may not exceed the size and number requirements outlined below <sup>1 2</sup>

<b>Lot Size</b>	<b>Maximum individual accessory building footprint</b>	<b>Maximum number of accessory structures</b>	<b>Maximum total accessory structure area</b>
Less than ½ acre	No greater than 800 sq. ft.	3	1,000 s.f.
½ an acre to 1 acre	No greater than 1000 sq. ft.	4	1,000 s.f.
1 acre to 3 acres	No greater than 1,500 sq. ft.	4	2,000 s.f.
3 or more acres	Must be smaller than principal building, may be located in any yard(front, side, or rear)	No specific limit, lot coverage applies	No specific limit, lot coverage applies

## 4.2 SPECIAL REGULATIONS

### 4.2.1 Setbacks.

1. 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

<sup>1</sup> Ground mounted solar panels are exempt from footprint size limitations of this Section 4.1.6, but not lot coverage limitations.

<sup>2</sup> Historic storage or accessory structures on properties identified on the Massachusetts Cultural Resource Information System (MACRIS) or by the local or state Massachusetts Historical Commissions will not count towards maximum allowable square footage for the purposes of adding new accessory structures; however, expanding an existing historic structure will be counted towards the allowable square footage.

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.

2. **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).

3. **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. **Side Yard Exceptions.** On an existing lot in a Residential District specifically exempted from the lot width requirements hereof pursuant to G.L. c. 40A, s. 6, para. 4, 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.

**4.2.2 Projections.** 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.

**4.2.3 Corner Clearance.** 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.

**4.2.4 Corner Lots.** 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.

1. With respect to side and rear yards of a corner lot, the side opposite the Post Office address front setback shall be considered a "Rear Yard" and the side opposite the other front setback shall be considered a "Side Yard". All setback distances shall comply with the required distances specified for the district in which the corner lot is located.

**4.2.5 Swimming Pools.** 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. In all residential districts no swimming pools shall be placed nearer than 10 feet from any abutting property lines.

**4.2.6 Hotel or Motel.** A hotel or motel shall be a permitted use by special permit if located on a lot containing not less than two (2) acres in a non-residential zone.

**4.2.7 In-patient Medical Facilities: Hospitals, Long-term care Facilities, or Substance Abuse Detoxification or Treatment Centers.**

**1.General:** An in-patient medical facility, hospital, long-term care facility, or substance abuse detoxification or treatment center may be allowed by special permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board. In-patient facilities with out-patient components shall be subject to Section 4.2.7.

## **2.Infrastructure**

- a. Water and Sewer.** The facility shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- b. Roads.** All newly created traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- c. Refuse.** Collection and disposal of all refuse shall be provided privately.
- d. Utilities.** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- e. Safety.** The facility shall have an integrated emergency call, security,

telephone, and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.

**f. Open Space.** At least twenty percent (20%) of the parcel shall be open space, which is any land not containing a building, structure, or impervious surface material. The open space shall have a shape suitable to assure its use for areas of scenic beauty, landscaping and/or useable recreational purposes. At least ten percent (10%) of the open space shall be for recreational use by patients and visitors, such as looped pathways, settings for physical therapy, playground, courtyard, or gardens for walking. Outdoor areas should be visible from patients' rooms, interior public spaces and corridors. Seventy-five percent (75%) open space shall be contiguous, and no piece shall be included in the calculation of open land unless at least two hundred square feet in size. Preserving existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites are a priority.

**g. Bonding procedures and requirements** for roadways, utilities, structures, and site amenities for a facility shall be the same as those established by the Planning Board for subdivisions in the Town of Canton.

### 3. Dimensional Regulations

<b>Hospital, Long-term care facility, or Substance Abuse Detoxification or Treatment Center</b>	
<b>Dimensional Regulations</b>	
<b>Minimum Lot Size</b>	1.Six to ten beds:21,780 square feet (0.5 acre). 2.Eleven to 20 beds: 43,560 square feet (1 acre). 3.Every ten beds (or fraction thereof) over 20 beds: 21,780 square feet (0.5 acre).
<b>Minimum Non-wetland Area</b>	Same as minimum lot size.
<b>Lot Width</b>	200 feet
<b>Frontage (ft.)</b>	100 feet
<b>Lot Coverage (%)</b>	25
<b>Open Space (%)</b>	20
<b>Setbacks</b>	Determined by underlying zone
<b>Proximity to existing residential zone</b>	500 feet
<b>Proximity to existing hospital, long-term care facility, or substance abuse detoxification or treatment center</b>	500 feet
<b>Maximum Number of Beds</b>	115 beds
<b>Maximum Height</b>	40 feet or 3 floors, whichever is less

#### **4. Landscaping Requirements**

a. **Buffer zone:** The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.

- a. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence.
- b. All parking areas shall be screened from adjoining streets and abutting properties.

#### **4.2.8 Out-patient Only Medical Facilities: Healthcare Facilities/Clinics or Out-patient Substance Abuse Detoxification or Treatment Centers.**

**1. General:** An out-patient healthcare facility/clinic or out-patient substance abuse detoxification or treatment center may be allowed by special permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board. In-patient facilities with out-patient components shall be subject to Section 4.2.7.

#### **2. Infrastructure**

- a. **Water and Sewer.** The facility shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- b. **Roads.** All newly created traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- c. **Refuse.** Collection and disposal of all refuse shall be provided privately.
- d. **Utilities.** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- e. **Safety.** The facility shall have an integrated emergency call, security, telephone, and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
- f. **Bonding procedures and requirements** for roadways, utilities, structures, and site amenities for a facility shall be the same as those established by the Planning Board for subdivisions in the Town of Canton.

#### **3. Dimensional Regulations**

<b>Hospital, Long-term care facility, or Substance Abuse Detoxification or Treatment Center</b>	
<b>Dimensional Regulations</b>	
<b>Minimum Lot Size</b>	Determined by underlying zone
<b>Minimum Non-wetland Area</b>	Same as minimum lot size.
<b>Lot Width</b>	200 feet
<b>Frontage (ft.)</b>	100 feet
<b>Lot Coverage (%)</b>	25
<b>Setbacks</b>	Determined by underlying zone
<b>Proximity to existing residential zone</b>	500 feet
<b>Proximity to existing healthcare facility/ clinic or out-patient substance abuse detoxification or treatment center</b>	500 feet
<b>Maximum Height</b>	40 feet or 3 floors, whichever is less

#### **4. Landscaping Requirements**

- a. Buffer zone: The side and rear lot lines shall be screened by a ten(10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
- c. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence.
- d. All parking areas shall be screened from adjoining streets and abutting properties.

### **4.3 HEIGHT REGULATIONS**

**4.3.1 Maximum Height of Buildings.** 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:



<b>District</b>	<b>Maximum Height</b>
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	40 feet or four stories, whichever is lower
Industrial	52 feet or four stories by Special Permit
Business	40 feet

**4.3.2 Height Determination of Structures and Buildings.** Maximum building height shall be determined in accordance with the Massachusetts State Building Code.

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 4.3.1. 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.

**4.3.3 Exception for Structures Not Used for Human Occupancy.** 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.

**4.3.4 Exception for LI or I Districts.** 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

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 4.1; and
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 (52') (except for non-habitable structures as provided in Section 4.4) or provide for more than four stories, and

3. The required side yard width for any building that exceeds forty (40) feet in height shall not be less than sixty feet (60'), and
4. The minimum lot area for any building that exceeds forty (40) feet shall be eight (8) acres, and
5. The provision of this Section 4.3.4 shall not apply to any above grade structured parking

**4.3.5 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 fifteen feet (15') in height.

## **SECTION 5.0 NON-CONFORMING USES AND STRUCTURES**

**5.1 APPLICABILITY.** This By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this By-law, or any relevant part thereof, was adopted. Such prior, lawfully existing non-conforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**5.2 NON-CONFORMING USES.** The Board of Appeals may award a special permit to change a non-conforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. The following types of changes to non-conforming uses may be considered by the Board of Appeals:

**5.2.1** Change or substantial extension of the use;

**5.2.2** Change from one non-conforming use to another, less detrimental, non-conforming use.

**5.3 NON-CONFORMING STRUCTURES.** The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a non-conforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The following types of changes to non-conforming structures may be considered by the Board of Appeals:

**5.3.1** Reconstructed, extended or structurally changed;

**5.3.2** Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

**5.4 VARIANCE REQUIRED.** Except as provided in Section 5.5, below, the reconstruction, extension or structural change of a non-conforming structure in such a manner as to increase an existing non-conformity, or create a new non-conformity, shall require the issuance of a variance from the Board of Appeals; provided, however, the extension of an exterior wall at or along the same non-conforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

**5.5 NON-CONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES.** Non-conforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the non-conforming nature of said structure and provided that the square footage of the non-conforming structure is not increased by more than twenty-five percent (25%). The following circumstances shall not be deemed to increase the non-conforming nature of said structure:

**5.5.1 Insufficient Area.** Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements;

**5.5.2 Insufficient Frontage.** Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements;

**5.5.3 Other Encroachment.** Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

**5.5.4 Exceptions Do Not Apply.** In the event that the Building Commissioner determines that the above exceptions do not apply, the Board of Appeals may by special permit allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing non-conforming structure to the neighborhood. For the purposes of this subsection, the term “reconstruction” shall not mean the total demolition and rebuilding of the premises, which is governed by subsection 7, below.

**5.6 ABANDONMENT OR NON-USE.** A non-conforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this By-law; provided, however, that the Board of Appeals, by the grant of a special permit, may authorize the reestablishment of a non-conforming use or structure where such reestablishment shall not result in substantial detriment to the neighborhood.

**5.7 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION.** A non-conforming single family or two-family structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:

**5.7.1** Reconstruction of said premises shall commence within two years after such catastrophe or demolition.

**5.7.2** Building(s) as reconstructed shall be located on the same footprint as the original non-conforming structure, shall be only as great in volume or area as the original non-conforming structure.

**5.7.3** In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original non-conforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

**5.8 REVERSION TO NON-CONFORMITY.** No non-conforming use shall, if changed to a conforming use, revert to a non-conforming use.

## SECTION 6.0

## GENERAL REGULATIONS

### 6.1 OFF-STREET PARKING

**6.1.1 Parking Requirements in All Districts.** 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. 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.

<b>PRINCIPAL USE</b>	<b>REQUIRED PARKING</b>
Detached dwelling unit	Two spaces
Dwelling unit - multifamily dwelling	Two spaces per unit
Assisted Living Facilities	0.5 spaces/1,000 building gross square footage plus employee parking as deemed adequate by the Board of Appeals
Boarding and lodging houses, hotels, motels	One parking space for each sleeping room for single or double occupancy, or, where not divided into such rooms (as in a dormitory), one space for each two (2) beds
In-patient medical facilities: long-term care facilities, hospitals, or in-patient substance abuse detoxification or treatment centers	2.5 spaces/ 1,000 building gross square footage
Out-patient medical facilities: clinics, medical offices, or out-patient substance abuse detoxification or treatment centers	4.0 spaces/ 1,000 building gross square footage

<p>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</p>	<p>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.</p>
<p>Recreational uses not involving intensive assembly, such as boat liveries, riding stables, ski grounds, golf driving ranges, and the like</p>	<p>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.</p>
<p>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</p>	<p>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.</p>
<p>All other business uses, including drive-ins, fast food restaurants, open air sales lots, automobile repair garages and motor vehicle fuel stations</p>	<p>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.</p>
<p>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</p>	<p>One parking space for each two hundred fifty (250) square feet of gross floor area 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.</p>

**6.1.2 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. However, if the Board of Appeals finds that the need for the shared parking occurs at different times, the Board may allow a parking reduction.

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

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

**6.1.4 Changes In Requirements.** Whenever after the date of adoption of this 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 (6) months on the basis of the adjusted needs.

1. 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.

**6.1.5 Location of Facilities.** Off-street 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.

**6.1.6 General Design.** 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.

1. 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 depth as provided herein. Such setback area shall be landscaped and maintained.

**6.1.7 Spaces.** 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 nine (9) feet by eighteen (18) feet exclusive of access drives or aisles except in the following instances:

1. Parking spaces parallel to the flow of traffic shall have minimum dimensions of eight (8) feet by twenty one (21) feet.
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.
3. Spaces 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 space. 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.
4. Smaller stalls for compact cars are allowed and recommended, up to 30% of the off-street parking provided. Compact car spaces shall not be less than 8 feet by 16 feet. Compact-size parking spaces shall be grouped together to the greatest possible extent in areas clearly designated for compact cars. Parking lots shall have a system of signs that clearly indicates the location of compact car spaces. For parking areas with twenty or more spaces, together with any reduction in total parking area obtained as a result of using compact-sized paces, an equal or greater area of open space shall be provided in addition to minimum landscaping requirements required by the lot coverage provisions of Section 6.1.11.

**6.1.8 Aisles.** Aisles providing vehicular access to individual parking spaces shall be a minimum of twenty four (24) feet in width where spaces are laid out and at an angle of ninety (90) degrees to the aisle. Aisles designed for one-way traffic flow with parking spaces laid out at an angle less than ninety (90) degrees to the direction of vehicle travel may have reduced widths as indicated in the following table:

<b>Parking Angle</b>	<b>Minimum Aisle Width</b>
30 degrees	12 feet
45 degrees	13 feet
60 degrees	18 feet

**6.1.9 Maintenance.** 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. Permeable paving for parking stalls is allowed, as long as it meets other applicable maintenance requirements.

**6.1.10 Use for Parking Only.** Required spaces shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.

**6.1.11 Landscaping; Parking Areas with Twenty or More Spaces.** 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 for greenbelts in Limited Industrial District and Industrial District.

1. 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, such as vegetated islands with bioretention areas. 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

**6.1.12 Parking Areas with Fifty (50) or More Spaces.** Any parking area designed to accommodate more than fifty (50) motor vehicles 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.

**6.1.13 Access Drives.** Access drives shall be a minimum of thirty (30) feet wide unless a median island is provided between opposing directions of vehicular travel. Drive connections or curb cuts shall not exceed seventy (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 a waiver to this Section Article by a special permit.

**6.1.14 Parking Garages.** 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, with the exception of certain cases in a Limited Industrial District (see Section 7.2).

**6.1.15. Special Permit.** The Zoning Board of Appeals may, by special permit, authorize a deviation from any parking requirement set forth in this Section 6.1, provided that such relief shall not result in substantial detriment to the neighborhood.

**6.2 LOADING AREAS**

**6.2.1 General.** 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.

**6.2.2 Requirements.** The following number of loading bays shall be 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

**6.2.3 Special Permit.** The Zoning Board of Appeals may, by special permit, authorize a deviation from any loading requirement set forth in this Section 6.2, provided that such relief shall not result in substantial detriment to the neighborhood.

**6.3 SIGNS**

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

**6.3.2 Administration and Enforcement.** The Building Commissioner is hereby designated and authorized as the officer charged with the enforcement of this Section.

**6.3.3 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 Commissioner, has been filed with the Building Commissioner 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.

**6.3.4 Exceptions.** The provisions of Section 6.3 shall not apply to:

1. Signs permitted in a residential area as provided herein.
2. One real estate sign advertising the premises for sale or rent of not over six (6) square feet in area located on premises in a business area.

**6.3.5 Public Announcements.** The Board of Selectmen may authorize in any zoning district a temporary sign or signs for public safety or government message purposes. 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. The Board may consider in its decision the following:

1. Size of the sign, but in no event larger than twenty five (25) square feet in area.
2. Whether the sign shall be illuminated and, if so, during what time periods.
3. Dates for erecting and removing the sign.
4. The distance the sign shall be back from the paved surface of any public way, but in no event less than two and a half (2.5) feet.
5. The message on the sign.
6. The number of colors on the sign, but in no event more than four (4) including the color white.
7. The total number of signs to be erected.
8. The location or locations of the sign or signs.

**6.3.6 Appeals.** A person aggrieved by an order or decision of the Building Commissioner under this Section may appeal to the Board of Appeals. It shall be the duty of the Board to hear the appeal of any person aggrieved by an order or decision of the Building Commissioner, and to hear and determine all applications for special permits as provided for under this Section.

**6.3.7 Signs in Residential Districts.**

1. *Accessory Signs.* No accessory sign shall be erected or maintained on any lot in a Single Residence or General Residence District except as set forth herein.

a. 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.

b. 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.

c. 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.

d. Churches, schools and public or other non-profit uses shall not be subject to the limitations set forth above.

2. *Non-Accessory Signs.* No non-accessory sign shall be erected or maintained in a single Residence or General Residence District.

**6.3.8 Business, Limited Industrial and Industrial Areas.**

1. *Accessory Signs.* In a Business, Limited Industrial or Industrial District, only those accessory signs which are permitted in residential areas, (as provided in Section 6.3.7 or which comply with the following provisions of this Section may be erected or maintained.

- a. Location. 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.

2. *Standing Signs.* Standing signs are prohibited except as follows:

- a. Any such signs, permits for which, in particular instances, may be granted by the Board of Appeals, in accordance with the provisions of Section 6.3.9.
- b. 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.
- c. 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.
- d. Number. 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.

e. 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.

3. *Illumination.* 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 (4) 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 (11) o'clock P.M. and seven (7) o'clock A.M., unless the business establishment or office is open to the public.

e. No illumination shall be permitted which casts glare onto any portion of any street, or residential premises.

f. The provisions of this Section 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.

4. *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.

5. *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 Commissioner. 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 Commissioner. The Building Commissioner may order the removal of any sign that is not maintained in accordance with the provisions of this By-law.

### **6.3.9 Special Requirements.**

1. Motor vehicle fuel 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 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 twenty (20) square feet and have no more than two (2) colors.

2. 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: 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. 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.

3. The regulations contained in Section 6.3.8 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.



4. 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 6.3.8. 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 (90) days.

5. Roof signs are not permitted.

**6.3.10 Non-Accessory Signs.** Non-accessory signs shall not 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 Chapter 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. Any non-accessory sign shall comply with the provisions of Section 6.3 as to illumination, movement, and construction and maintenance. Such sign shall not be:

1. Within fifty (50) feet of any public way.
2. Within three hundred (300) feet of any public park, playground or other public grounds, if within view of any portion of the same.
3. 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.
4. 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.
5. 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.

6. 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.

**6.3.11 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:

1. shall have been abandoned;
2. 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
3. shall not have been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the Building Commissioner.

**6.3.12 Projecting Accessory Sign or Canopy/Awning Accessory Signs.** 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:

1. Name, address and telephone number of applicant.
2. Plans indicating location and placement of sign.
3. Plan and elevation drawings which show the building facade and the proposed sign to scale.
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.

5. Location of proposed sign with respect to neighboring signs and advertising devices.

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

**6.3.13 Special Permit.** The Zoning Board of Appeals may, by special permit, authorize a deviation from any sign requirement set forth in this Section 6.2, provided that such relief shall not result in substantial detriment to the neighborhood.

#### **6.4 LANDSCAPING AND SCREENING**

**6.4.1 Purpose.** The purpose of this Section 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.

**6.4.2 Applicability.** Landscaping Areas for parking lots shall be provided in accordance with Section 6.1.11 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 6.1.11.

**6.4.3 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:

1. Applicants watering schedule and maintenance schedule for the first year after project acceptance.
2. 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.
3. 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.

**6.4.4 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.

**6.4.5 Fencing.** Fencing may be allowed in lieu or in conjunction with plantings. Design and height of such fencing, with accompanying landscaping, shall be subject to the approval of the Zoning Board of Appeals.

**6.4.6 Retaining Walls.** Retaining walls shall be constructed to a maximum height of six (6) feet. If site conditions require elevation changes of greater than six (6) feet, retaining walls shall be terraced and landscaped. Retaining walls facing residential districts shall be solid fieldstone or fieldstone veneer or other similar material. Unless used within the Industrial Districts, vertical cast in place concrete or concrete blocks shall not be permitted.

**6.4.7 Berms.** The Zoning Board of Appeals may require a berm or berms in appropriate circumstances to promote the goals of this section..

**6.4.8 Unsightly Uses and Areas.** Exposed storage areas, refuse disposal facilities, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings.

**6.4.9 Maintenance.** All landscaping features, structures and areas shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season as a condition of approval.

**6.4.10 Special Permit.** By special permit, the Zoning Board of Appeals may authorize a reduction in the requirements of this section, where such reduction will not result in substantial detriment.

## **6.5 ENCLOSURE**

**6.5.1 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:

1. Uses permitted as of right or permissible on special permit in any General Residence District.
2. The dispensing of food, beverages or goods at a drive-in or stand, where authorized.
3. Accessory outdoor dining area where authorized.

4. The dispensing of fuel, lubricants or fluids at a garage or service station, where authorized.
5. Agricultural and Related Uses as permitted, such as plants growing in the soil.
6. Recreational Uses as permitted, such as golf courses and driving ranges.
7. Automobile parking lots.
8. Exterior signs, as hereinafter permitted.
9. Exterior lights, as hereinafter regulated.
10. 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.

**6.5.2 Industrial District.** 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.

**6.5.3 Junk in Nonresidential 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.

## **6.6 GREENBELTS IN LIMITED INDUSTRIAL DISTRICTS AND INDUSTRIAL DISTRICTS**

**6.6.1 General.** 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.

## **6.7 PERFORMANCE STANDARDS**

**6.7.1 General.** The following standards shall apply to applications for special permits or for site plan approval for nonresidential use.

**6.7.2 Lighting.** The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall (i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity, and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

1. **Shielding.** All outdoor light fixtures shall be shielded so as to meet the goals of this Section.
2. **Light Trespass.** Direct light from the light source is to be confined within the property boundaries and shall not cause overspill on adjacent property or into the night sky. Light trespass shall be limited to 0.25 foot-candles at the property line. Light fixtures shall enclose and shield light sources such that no point sources of light are visible from off-site locations and no light shall project above horizontal.
3. **Light Intensity.** Outdoor lighting shall be designed to provide the minimum intensity needed at any particular time. Design illumination levels shall be comparable to the minimum requirements of the Illuminating Engineering Society of North America (IESNA) for each land use, except that higher illumination levels shall be provided at on-site intersections and site entrances and in other locations dictated by traffic safety concerns.
4. **Illuminated Surfaces.** Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light. Parking area lighting shall be reduced or eliminated outside business hours. The Zoning Board of Appeals may require electrical controls for parking lots which support pre-timed shut off for specific unused areas to reduce the glare from lighting.
5. **Searchlights.** The operation of laser shows or searchlights for advertising purposes is prohibited; provided however, that same may be authorized for a period of not more than fourteen (14) days by special permit issued by the Zoning Board of Appeals.

6. Sodium Vapor or Metal Halide Lighting. No outdoor light fixtures using sodium vapor or metal halide lamp or lamps shall be allowed unless specifically authorized.

7. Outdoor Signs. Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure and shall direct light downward or otherwise restricted to prevent up-light and light trespass.

8. Flickering and Flashing Lights. No flickering or flashing lights shall be permitted.

9. Height of Fixtures. Luminaires attached to a building for area lighting shall be mounted no higher than fifteen (15) feet above grade. Pole mounted exterior lighting fixture types shall be mounted no higher than twenty (20) feet above grade.

10. Hours of Operation. Except as may be deemed appropriate for site safety or security, all external lighting, including lighting accessory to authorized signs, shall be extinguished or shall provide reduced illumination levels one half hour after the facility is closed for the business day. Such lighting may be pre-timed to resume one half hour prior to the arrival of the first employee on the premises.

**6.7.3 Noise.** The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise. Practices and systems shall (i) reduce noise pollution in order to preserve and enhance the natural and aesthetic qualities of the Town; (ii) preserve property values; and (iii) preserve neighborhood character.

1. Hours of Operation. As a condition of any special permit, the Zoning Board of Appeals may incorporate the following conditions regarding hours of operation:

a. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or other objects or materials for sale or storage or use and the collection of garbage or trash including dumpster change out in a manner that causes a condition of noise pollution at any time but most specifically between the hours of eight post meridian (8:00 P.M.) and seven ante meridian (7:00 A.M.) across a real property boundary in any district established under the Zoning By-law.

b. Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of eight post meridian (8:00 P.M.) and seven ante meridian (7:00 A.M.) on week days or at any time on Sundays or Holidays so that the sound creates a



condition of noise pollution across a real property boundary.

c. The operation of heavy earth moving equipment shall comply with the Town's General By-laws.

d. All rooftop mechanical equipment shall be screened and acoustically buffered.

2. Ambient Noise Level. No person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 10 dBA above ambient or exceeds 65  $L_{dn}$  total for residential receptors or exceeds 75  $L_{dn}$  total for nonresidential receptors when measured at the property boundary of the receiving land use.

**6.7.4 Stormwater Management.** The proposed development shall include adequate provisions or measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, prevent changes in groundwater levels, increased run-off, and potential for flooding, and minimize adverse impacts to neighboring properties by flooding from excessive run-off.

1. Consistency with the Massachusetts Stormwater Management Regulations. All development shall comply with the DEP's Stormwater Management Regulations to ensure that the peak rate of surface water run-off from the site shall not be increased nor degraded in quality after construction.

2. The on-site water stormwater management system shall comply with requirements of the Planning Board's "Rules and Regulations Governing the Subdivision of Land", with all regulations and standards of Canton Department of Public Works, and with standard engineering practice. In case of conflict among the aforesaid and the DEP Stormwater Management Regulations, the more restrictive shall govern.

3. Dry Wells. Dry wells shall be used only where other methods are unfeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.

4. Conservation Commission. Where applicable, no special permit shall be issued unless a report shall have been received from the Conservation Commission or the Zoning Board agent that the storm drainage system is consistent with DEP Stormwater Management Regulations and that there is sufficient storm drainage capacity to meet the flow demands of the proposed development on-site, and where applicable, without causing surcharge in those

storm drainage lines which serve the project and are consistent with the standards of the Town.

5. Temporary Measures. During the construction phase, temporary diversions, berms, grassed waterways, special culverts, shoulder dikes temporary stilling or detention/retention basins or such other mechanical measures as may be necessary may be required by the Board to intercept and divert surface water runoff. Runoff flow shall not be routed through resource areas of protected vegetation or revegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed according to BMPs, such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of 3:1.

6. Erosion and Sedimentation Control. During the construction phase, erosion and sedimentation controls shall be provided and continuously adjusted and maintained throughout the course of construction to preclude damage to resource areas, adjacent properties, and public ways in accordance with the DEP Stormwater Regulations. Topsoil and loam storage areas shall also be subject to these standards.

**6.7.5 Site Development Standards.** To the extent practicable, the proposed development shall be located to preserve and enhance the natural features of the site, to avoid disturbances of environmentally sensitive areas, to minimize adverse impacts of development on adjoining properties, to minimize the alteration of the natural features of the site and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the subdivision and the Town.

1. Land Disturbance. Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.

2. Replication. Clearing of vegetation and alteration of topography shall be replicated with native vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat, if any.

3. Clearing for Utility Trenching. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.

4. Site Design.

- a. Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.
- b. Building sites shall be directed away from the crest of hills, and foundations shall be constructed to reflect the natural terrain.
- c. Sites shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.

5. Archeological or Historical Resources. The applicant shall comply with the regulations of the Canton Historical Commission and/or the Massachusetts Historical Commission.

6. Preservation of Existing Vegetation. Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.

- a. Understory vegetation beneath the drip line of preserved trees shall be retained in an undisturbed state.
- b. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

7. Limit of Clearing. Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading.

- a. During clearing and/or construction activities, the limit of work line shall be marked by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Area beyond the limit of work shall be retained in an undisturbed state.
- b. In order to minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles,

offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures.

c. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

8. Finished Grade. Finished grades should be limited to no greater than a 2:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. The design of grade changes at the base of existing large trees shall be subject to the approval of the Zoning Board of Appeals or its agent.

9. Phasing of Development. The Zoning Board of Appeals may limit the extent of a site exposed at any one time through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.

10. Revegetation. Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.

11. Topsoil. A minimum of six inches (6") of topsoil shall be placed on all disturbed surfaces which are proposed to be planted.

**6.7.6 Pedestrian and Vehicular Access; Traffic Management** The proposed development and/or redevelopment shall be designed with a forecast for the next five years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation on the site for expected vehicles, pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to offset the impact of the development; (iv) reduce the traffic impacts of the proposed development on the area and the Town by incorporating traffic management devices; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The Development shall not degrade safety for pedestrians, bicyclists, motor vehicle occupants, or property.

1. Access. To the extent feasible, access to nonresidential uses and structures shall be provided via one of the following (i) Access via a common driveway serving adjacent lots or premises; (ii) Access via an existing side street; (iii) Access via a cul-de-sac or loop road shared by adjacent lots or premises.

- a. Access via roadways abutting residential districts shall be avoided where possible.
  - b. Access and egress to a development with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the Board.
2. Driveways. Each development shall be served by an adequate driveway.
  - a. The Board may, in certain circumstances, allow additional driveways as a condition of approval where the access is shared or the project has frontage on two separate streets. The aforesaid notwithstanding, larger developments shall provide at least two (2) means of access to the public roadway system of the Town, one (1) of which may be restricted to emergency vehicle use.
  - b. All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.
  - c. Driveways shall comply with the pavement and base thicknesses required by the Planning Board's "Rules and Regulations Governing the Subdivision of Land" for "Residential Streets." Vertical faced precast concrete curb or vertical faced granite curb shall be provided along the edge of pavement.
3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width unless waived by the Board for industrial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.
4. Interior Circulation. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic.
5. Transportation Plan Approval. The proposed development shall be subject to Transportation Plan approval by the Board. The Transportation Plan shall consist of the following information:

- a. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
- b. A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. For proposed development in excess of 25,000 gross square feet or generating more than 100 trips in any one hour, determined in accordance with the Institute of Transportation Engineers, Trip Generation, an ITE Informational Report, Eighth Edition, Volumes 1 through 3, © 2008 Institute of Transportation Engineers, the required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition. The Board shall approve the geographic scope and content of the study. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.
- c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.
- d. For proposed development in excess of 25,000 gross square feet or generating more than 100 trips in any one hour, the applicant shall submit a Traffic Management Component (TMC) as part of the Transportation Plan. The TMC shall provide information on the number of expected person trips to and from the site, broken down by various travel modes (e.g., single occupancy vehicle, carpool, walk, bicycle, commuter rail, shuttle bus, etc.). The TMC shall also incorporate one or more of the following techniques to reduce the number of single occupancy vehicle trips by employees coming to and departing from the proposed use:
  1. Establishment of or contribution to a Traffic Management Association (TMA) within the region, which shall provide shuffle services for employees and other services as may be appropriate;
  2. Employee carpools or vanpools sponsored by the employer or the TMA;
  3. Subsidized commuter rail passes, provided by the employer, and sold on the site or offered through payroll deduction;
  4. Monetary incentives to employees who do not use a parking space;

5. On-site shower facilities and/or bicycle racks for employees who do not drive to work;

6. Other techniques as may be deemed appropriate by the Board or its traffic consultant.

6. Level of Service Maintenance or Improvement.

a. If the proposed project will result in an intersection level of service (LOS) below LOS D, or result in a roadway volume to capacity ratio (v/c ratio) greater than 1.0 determined in accordance with the 2010 “Highway Capacity Manual” of the Transportation Research Board of the National Academies, the applicant may be required to provide detailed plans (including reconstruction concepts), that when implemented would result in improvement or the least deterioration of existing conditions. The applicant may be required to obtain approval for such plans from agencies having jurisdiction.

b. If the proposed project will result in a reduction in level-of-service of one letter grade or an increase of 10 seconds of delay to a signalized or un-signalized intersection, the applicant may be required to provide detailed plans that when implemented would result in improvement or the least possible deterioration of existing conditions. The applicant may be required to obtain approval for such plans from agencies having jurisdiction.

c. If a project causes a change in intersection operations as set forth in paragraphs a or b above, the applicant may be required to construct the intersection improvements at their expense.

7. Dangerous Intersections. The Board may require mitigation for any net increase in traffic volumes of 10% or more at an intersection where crashes per million vehicles entering exceeds the MassDOT District 5 average crash rate for either signalized intersections or un-signalized intersections as applicable based upon analysis of vehicle crash data for the last three years for which data is available.

8. Sight Distance. Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the MassDOT or the American Association of State Highway Transportation Officials standards for safe-stopping sight distance (SSD) and for intersection sight distance (ISD).

9. Maximum Parking. The maximum parking allowed for a development shall be no more than the minimum number of spaces required under zoning.

10. Mitigation. The Board may require as a condition of any special permit or site plan approval off-site improvements to mitigate the impact of the proposed development. Such improvements include intersection widening and traffic signals or the components of the TMC. All road and intersection improvements proposed as part of development and redevelopment shall be consistent with local plans.

11. Pedestrian and Bicycle Safety. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements:

a. All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the Board.

b. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.

c. All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.

d. The Board may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.

e. Sidewalks, crosswalks, walkways, bikeracks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.

f. If the property abuts a public bikeway/ right-of-way, a paved access route to the bikeway may be required.

12. Design Standards for Parking Areas. Parking areas shall comply with the pavement and base thicknesses required by the Planning Board's "Rules and Regulations Governing the Subdivision of Land" for "Residential Streets."



Vertical faced precast concrete curb or vertical faced granite curb shall be provided along the edge of pavement.

13. Location of Parking Areas. Where feasible, the Zoning Board of Appeals may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The Zoning Board of Appeals may require alternative studies of parking lot layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking lots of adjacent nonresidential uses and land zoned for nonresidential uses

14. Parking in Required Front Setback. The Zoning Board of Appeals may prohibit parking within the required front setback.

15. Traffic Calming Features. Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.

**6.7.7 Aesthetics.** In determining the appropriateness of buildings, design elements of proposed buildings shall be evaluated in relation to existing buildings adjacent or surrounding buildings. New buildings shall respect the architectural character of adjacent buildings or, in the case of multi-tenant commercial areas, the overall architectural theme of the area. Compatibility rather than conformity is desired. The Zoning Board of Appeals shall not consider interior arrangements. Buildings shall be designed as “four sided buildings” where the back and sides of each building shall be given architectural care comparable to the front side particularly if available for view by the public. The Zoning Board of Appeals will review the following aspects of new buildings or proposed renovations:

1. Height and width proportions;
2. Bulk and general massing (footprint, shape, articulation or detail);
3. Major divisions or rhythms of the façade (height and width proportions, building lines, etc.). Buildings shall be designed so that there are no blank walls or box-like structures without visual interest and architectural merit;
4. Rhythm of openings (i.e. number of windows, spacing, window and doors relationships);
5. Roof treatments (slope, articulation, surface). Rooftop mechanical equipment shall be screened from view by roof forms or other appropriate screening devices;

6. Materials, colors and textures of signage.
7. Setbacks in relation to neighboring properties.
8. For developments with multiple buildings, the Board of Appeals may require that contiguous buildings have distinct but harmonious architectural elements.

**6.7.8 Sanitary Sewer System.** The proposed development shall be adequately served by public or private wastewater collection and treatment systems.

1. Connections to the municipal sanitary sewer system may be allowed only if allowed by current municipal and state regulations. The Board of Appeals may require elimination of infiltration and inflow (i & i) in existing sewers to offset additional sanitary sewer flow in accordance with current municipal and state policies for i & i offsets whichever is the more restrictive.
2. On-site sanitary sewer collection systems shall comply with requirements of the Planning Board's "Rules and Regulations Governing the Subdivision of Land", with all regulations and standards of the Water and Sewer Division of the Canton Department of Public Works, and with standard engineering practice.
3. Wastewater Treatment and Disposal. The Board may require a report from the Board of Health confirming that the proposed site development provides for wastewater treatment and or disposal in a manner that is consistent with regulations of the Commonwealth of Massachusetts

**6.7.9 Water Distribution and Fire Protection System.** The proposed development shall be serviced by municipal water system and shall provide adequate pressure and flow to meet demands for potable water and fire protection.

1. Connections to the municipal water distribution system may be allowed only if allowed by current municipal and state regulations.
2. The on-site water distribution system shall comply with requirements of the Planning Board's "Rules and Regulations Governing the Subdivision of Land", with all regulations and standards of the Water and Sewer Division of the Canton Department of Public Works, and with standard engineering practice.
3. Static pressure and fire flow shall comply with DEP Guidelines and Policies for Public Water Systems (2001). Static pressure shall be 60 pounds per square inch (psi) desirable, 35 psi minimum. Fire flow shall meet Insurance Services Office (ISO) fire flow guidelines while maintaining a residual pressure of 20 psi.

4. For sites accommodating buildings containing more than 25,000 sq.-ft., there shall be two points of connection to the municipal water distribution system. Three full diameter gate valves shall be provided at points of connection to the municipal water distribution system. Full diameter gate valves shall be provided at each on site branch and at intervals not to exceed 1,000 feet on center.

**6.7.10 Private Utilities.** The proposed development shall be serviced by electrical distribution, telephone, cable, and fire alarm systems and may be served by a natural gas distribution system. All electrical distribution, telephone, cable, and fire alarm systems shall be installed underground

1. The on-site electrical distribution, telephone, cable, and fire alarm systems shall comply with requirements of the Planning Board's "Rules and Regulations Governing the Subdivision of Land", with all regulations and standards of the utility provider, with all applicable codes of agencies having jurisdiction, and with standard engineering practice.
2. All cables shall be encased in conduits.

System components shall be shown on the site plan for coordination and shall be revised to reflect utility provider modifications prior to construction.

3. All transformers shall be shown on the site plan and shall be located in visually unobtrusive locations and shall be thoroughly screened by fencing and plantings

**6.7.11 Site Security.** There shall be a certification by the Fire and Police Chief that the petitioner has provided a written plan for site security, which plan has been approved by the Fire and Police Chief.

**6.7.12 Fiscal Analysis.** The proposed Development shall maintain a positive net fiscal position for the long term, giving consideration to revenue estimates and actual growth in municipal service costs induced by the proposed Development.

1. The applicant shall provide an analysis of fiscal costs from the development, including increases in marginal costs, assessment of the capacity of existing municipal facilities to serve the new development, and, by order of magnitude, share of capital costs if improvements are needed.
2. The applicant shall identify an order of magnitude estimate as to the extent to which this development would generate the additional need for schools and affordable housing.

**6.7.13. Exemptions.** The following are exempt from these special permit and site plan approval standards:

1. Emergency Response. Emergency responses performed by a private entity or a public agency and fire or burglar alarms.
2. Events. Parades, fairs or outdoor entertainment between the hours of 7:00 am and 11:00 p.m. only provided that a permit for such activity has been granted by the Board of Selectmen and that said permit is for not more than ten (10) days.
3. Religious Structures and Services. Religious services conducted by an organization which qualifies under the laws of the commonwealth as a tax-exempt religious group.

**6.7.14 Waiver of Standards.** The Zoning Board of Appeals may, in the course of granting a special permit or site plan approval for nonresidential development, waive any of these performance standards where such waiver is not inconsistent with public health and safety, and where such waiver does not derogate from the purposes of this section because the proposed development will adequately serve the goals and objectives set forth herein.

## **6.8 General Provisions For Limited Industrial (C) Districts**

### **6.8.1 Purpose**

The Limited Industrial (C) District has been established to accomplish the following goals:

1. To promote the economic health and stability of the Town by encouraging development and economic investment that will generate employment and tax revenue.
2. To provide additional planning flexibility for projects.
3. To redevelop underutilized and/or blighted sites.

**6.8.2 Applicability** Buildings, structures, lots and uses within the LI (C) District shall be governed by the Zoning By-Law, except as modified by the provisions of this Section. Where provisions of this Section conflict or are inconsistent with other provisions of the Zoning By-Law, the provisions of this Section shall govern.

In the event of damage or destruction to any buildings or structures originally constructed pursuant to an approval issued hereunder, such buildings and structures may be rebuilt and restored consistent with the original approval without the requirement of obtaining any further approvals.

### **6.8.3 Special Permits and Site Plan Review and Approval**

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes with respect to any proposed projects within the LI (C) District. All special permit applications shall conform to the provisions of this Section 6.8 and the Board of Appeals' Rules and Regulations adopted pursuant to M.G.L.c40A Section 9 governing the administration for special permits.

In the LI(C) District, the SPGA may give site plan review and approval in accordance with the procedures provided in Section 10.5.1-10.5.4, and may grant a special permit in accordance with the procedures provided in Section 10.4.3, for a project that satisfies the criteria and conditions set out below.

The SPGA may approve an application for site plan review and approval and/or special permit based on a finding that the proposed project, as submitted or modified prior to its action, is in compliance with the criteria for approval set forth in Section 10.5.5 and M.G.L.c.40A, Section 9; provided, however, that the SPGA may deny the application for site plan review and approval and/or special permit if it determines that the effect of the proposed project on the public interest is so intrusive that no reasonable conditions can be developed to avoid that effect.

The SPGA may in its discretion waive any of the standards and criteria stated in this Section 6.8 or otherwise set forth in this Zoning By-law if the SPGA finds that such waiver does not derogate from the purposes of such standards and criteria because the proposed project satisfies the criteria stated in Section 10.5.5 of this Zoning By-Law.

Any special permit or site plan approval granted by the SPGA for a project in the LI (C) District shall lapse 3 years after the grant thereof, provided such period shall not include such time to pursue or await the determination of an appeal thereof.

### **6.8.4 Uses**

Uses allowed by right in either the Limited Industrial or Limited Industrial (B) Districts shall be allowed by right in the LI (C) District. Multiple principal or main buildings and uses shall be permitted on a Development Parcel.

In addition, the SPGA may issue a Special Permit for any use(s) within a Development Parcel in the LI (C) District which are allowed by Special Permit in either the Limited Industrial or Limited Industrial (B) Districts (whether or not such uses are conducted within a completely enclosed building) including, without limitation, a Hotel use on a Lot of not less than 2.5 acres, as well as any uses, facilities, amenities and structures accessory to any of the principal uses allowed hereunder within the Development Parcel (whether at, below, or above grade), including, without limitation, surface parking, below ground or above-ground, structured parking (not to exceed two levels above grade) and driveways and roadways, serving any principal uses within the Development Parcel.

**6.8.5 Density and Dimensional Requirements**

The Density and Dimensional Requirements set forth in the table below shall apply in the LI (C) District. In the application of the requirements below, the same shall not be applied to the individual lots or ownership units comprising or within a Development Parcel, but shall be applied as if the Development Parcel were a single conforming lot, whether or not the Development Parcel is in single- or multiple-ownership at the time of issuance of a Special Permit or Site Plan Approval or thereafter; provided, however, that violation of this section by an owner or occupant of a single lot or ownership unit or leased premises within a Development Parcel shall not be deemed to be a violation by any other owner or occupant within the Development Parcel provided there exists an organization of owners.

Area, frontage, and bulk	Development Parcel <sup>5</sup>
Minimum Lot Area	10 acres
Minimum Frontage	250 ft.
Maximum Building Coverage	30%
Maximum Building Height <sup>1,2,3</sup>	70 feet
Minimum Front Setback <sup>4</sup>	10 feet
Minimum Side Setback <sup>4</sup>	10 feet
Minimum Rear Setback <sup>4</sup>	10 feet

**Footnotes:**

1. Building heights shall be measured as set forth in the State Building Code 780 CMR 101.0 et seq.
2. The SPGA may allow an increase in the maximum height for any accessory structure(s) reasonably necessary for the safe and efficient operation of the principal use (e.g., support poles for “catch” netting used as part of a driving range or other similar commercial recreation facility), provided such structure(s) complies with applicable federal and state requirements.
3. See Section 4.3.3.
4. The SPGA may waive any setback distance where it finds such a waiver appropriate because of specific physical circumstances, such as irregular lot lines or other natural features that create open space or buffers.
5. Development Parcel shall mean one or more Lots within the LI (C) District which together are designated by a project applicant as a Development Parcel. The Lots comprising a Development Parcel need not be in the same ownership. Where the Development Parcel consists of more than a single Lot, the Lots, in

combination, shall be treated as the Development Parcel, may be contiguous or non-contiguous, and shall be considered one 'Development Parcel'.

#### **6.8.6 Parking, Loading and Driveway Requirements**

Projects in the LI (C) District shall provide and maintain off-street automobile parking (which may be either structured or non-structured, at, below or above grade) in connection with the erection, establishment or increase in units or dimensions of building, structures and principle uses, in the amounts set forth in Section 6.1.1 (which amounts may be in excess of the minimum amount required). The parking requirement for any accessory use shall be deemed satisfied by satisfying the parking requirements for the principal use.

Off-Street parking spaces, to the extent required by Section 6.1.1, may be provided anywhere within the Development Parcel and need not be on the same Lot as the parking generator.

Parking garages, parking decks, or any other parking structures, and the parking of any motor vehicles shall be allowed on and above ground level and below finished grade at any level, as may be allowed by the SPGA.

In addition to the requirements for automobile parking spaces there shall also be provided for each building or group of buildings sufficient off-street loading space to ensure that all loading operations take place off of the public way.

Projects in the LI (C) District shall require only one means of access to the public roadway system of the Town.

Pursuant to Section 6.1.15, the SPGA may, by Special Permit, authorize a deviation from or waiver of any parking or off-street loading requirement set forth herein or elsewhere in the Zoning By-Law.

#### **6.8.7 Signs and Advertising Devices**

In issuing a Special Permit pursuant to this Section 6.8, the SPGA may authorize a comprehensive signage package for a project which signage deviates from the requirements which would otherwise be applicable pursuant to Section 6.3 of this By-Law provided that the Board finds that such comprehensive signage does not result in substantial detriment to the neighborhood.

## **SECTION 7.0 SPECIAL REGULATIONS**

### **7.1 ADULT ENTERTAINMENT**

**7.1.1 Purpose.** 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.

**7.1.2 Applicability.** Adult entertainment uses subject to this special regulation are as follows:

1. Adult Bookstores;
2. Adult Motion Picture Theatres;
3. Adult Clubs;
4. Adult Paraphernalia Stores; and
5. Adult Video Stores.

**7.1.3 Special Permit.** The Zoning Board of Appeals, as special permit granting authority, may issue a special permit for the establishment of the adult uses specified herein consistent with the standards applicable to applications for special permits generally, providing that all the following requirements are met.



#### **7.1.4 Requirements.**

1. The adult uses must be located in an Industrial District.
- 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 G.L. c. 138, Section 12. In case of an adult club, which itself must be licensed under the provisions of G.L. c. 138, Section 12, such club must be located at least 500 feet from any other establishment licensed under the provisions of G.L. c. 138, Section 12.
4. Adult uses must be located 500 feet from any public or private school; house of worship; day care center; and 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.

**7.1.5 Conditions.** In granting a special permit under this Section 7.1, the Zoning Board of Appeals 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.

**7.1.6 Lapse.** 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.

#### **7.2 ABOVE OR BELOW GRADE STRUCTURED PARKING**

**7.2.1 General.** 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 4.0.

**7.2.2 Requirements.** The applicant shall demonstrate as part of the Site Plan Review process of Section 10.5 that:

1. The applicant has available space on the premises to comply with the otherwise applicable parking requirements 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.

2. 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 (7) feet.

3. The side yard width is not less than sixty (60) feet.

4. 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 (30) feet as measured from average finished grade to top of the uppermost deck (except for non-habitable structures, including walls and stairwells, as provided herein) or extend more than twenty four (24) feet below average finished grade level.

### **7.3 MOTOR VEHICLE FUEL STATIONS AND OTHER SERVICES.**

**7.3.1 General.** Motor vehicle fuel stations, 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 fifty (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.

#### **7.3.2 Requirements.**

1. The minimum frontage on a street shall be one hundred fifty (150) feet.
2. The maximum width of driveways and curb cuts measured at the street lot line or lines shall be thirty (30) feet; the minimum width shall be twenty four (24) feet.
3. The minimum distance of driveways, measured at the street lot line or lines shall be as follows:

From corner lot line:	20 feet
From interior lot line:	10 feet
From other driveway on same lot:	20 feet

4. The minimum setback of any building from all street lot lines shall be fifty (50) feet.
5. The minimum setback of gasoline pumps from all street lot lines shall be sixteen (16) feet.
6. A raised concrete or granite curb at least six (6) inches in height shall be constructed along all street lines except at driveway openings.
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 strip at least four (4) feet wide, densely planted with shrubs which are at least four (4) 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 (6) feet high within three (3) years, or an opaque wall, barrier, or fence of uniform appearance at least five (5) feet high, but more than seven (7) feet above finished grade.
8. Such screening shall be maintained in good condition at all times and shall not be permitted to exceed seven (7) 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 (10) feet of a street lot line.
9. The Zoning Board of Appeals may, for good cause, grant a special permit reducing the minimum dimensional requirements stated in said Section 7.3.

#### **7.4 EARTH REMOVAL**

**7.4.1 Applicability.** No earth removal operations shall be allowed at any premises within the Town unless such operations 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).

1. The Zoning Board of Appeals shall be the SPGA for all purposes hereunder except for subdivision developments, in which case the Planning Board shall be the SPGA. Preliminary 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.
2. See also, Canton Code, Article 20.

**7.4.2 Definitions.** See Section 11, "Earth Removal."

### **7.4.3 Prohibition.**

1. Earth removal operations are prohibited within the Groundwater Protection Overlay 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.
2. Earth removal operations, including without limitation use of any equipment or storage or deposit of earth materials related to such operations, and vegetative removal are prohibited within thirty (30) feet of any public or private way or property boundary line of any lot, tract, or parcel of land all of which is not owned by the same person or persons without an earth removal permit.

**7.4.4 Special Permit Required.** No special 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.

**7.4.5 Submittal Requirements.** A report outlining environmental concerns relating to the Proposed earth 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 fifteen (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 earth" removal operations on the water quality and hydrology of the immediate neighborhood.

**7.4.6 Special Exemptions.** The removal of earth material from any premises for the following operations shall constitute a special exemption from this Section

1. 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, provided (a) prior to performing any earth removal operations, the person or persons performing such operations shall file with the applicable SPGA a sit eplan and as-built plan (if applicable) showing all pertinent existing conditions at the site, including without limitation the grade, topography and ground cover existing at the property; (b) any earth removal operations are consistent with all the considerations set forth in Section 7.4.12 and comply with Section 7.4.3; and (c) upon the completion of such earth removal operations, the person or persons

performing such operations file(s) with the applicable SPGA a site plan and as-built plan showing the existing conditions as affected by the earth removal operations.

2. 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, provided (a) prior to performing any earth removal operations, the person or persons performing such operations shall file with the applicable SPGA a site plan and as-built plan (if applicable) showing all pertinent existing conditions at the site, including without limitation the grade, topography and ground cover existing at the property; (b) any earth removal operations are consistent with all the considerations set forth in Section 7.4.12 and comply with Section 7.4.3; and (c) upon the completion of such earth removal operations, the person or persons performing such operations file(s) with the applicable SPGA a site plan and as-built plan showing the existing conditions as affected by the earth removal operations.

3. The removal of earth material from land in use by the Town or other government agency.

4. 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. All plans required to be filed under this Section shall be prepared and certified by a duly licensed engineer. Failure to file with the SPGA any such plans prior to conducting any earth removal operations shall constitute a violation of this Section.

**7.4.7 Waiver.** Notwithstanding any provisions in Section 7.4.6 to the contrary, Section 7.4.6 shall not require the filing of site plans or as-built plans pursuant to subparagraphs (a) and (c) of those sections, provided that the earth removal operations being performed: (1) do not involve the removal of more than ten (10) cubic yards of earth material in the aggregate in any year from or on any one lot, tract or parcel of land; occur on any one lot, tract or parcel of land used principally for agricultural purposes and such earth removal operations are directly related to such agricultural use; or the property owner or its agent, duly authorized by such owner in writing, files with the applicable SPGA a request for a waiver from the SPGA to waive the site-plan and as-built plan requirements of Section 7.4.6.2 and payment of such fees as may be set by the Town pursuant to G. L. Ch. 40, s. 22F. The SPGA shall grant such waiver to the property owner only upon: (1) receipt of such written request for the waiver and filing fees; and (2) making a finding and

determination that (a) unusual circumstances affect the land and structures, (b) the property owner would suffer hardship related to his or her property but for the grant of such waiver, and (c) the proposed earth removal operations and granting of such waiver will not be a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of this Section.

**7.4.8 Exemptions for Existing Lawful Operations.** Any land use contra to this Section, 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 this Section 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.

**7.4.9 Application.** Each application for a special 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:

1. the existing contours of the land;
2. the contours as proposed after completion of the operation;
3. the proposed lateral support to all adjacent property;
4. the proposed drainage;
5. other information necessary to indicate the complete physical characteristics of the proposed operation.

**7.4.10 Other Boards.** 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.

1. Where the Planning Board acts as the SPGA, substitute Planning Board for Board of Appeals and Board of Appeals for Planning Board.

**7.4.11 Conditions of Permit.** 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.

1. 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 thirty (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 thirty (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.
2. No transfer of any permit allowing earth removal operation shall be transferred without (a) fourteen (14) days prior written notice to the applicable Special Permit Granting Authority of the intent to transfer such permit, and (b) a bond and/or other collateral in an amount and type satisfactory to the Special Permit Granting Authority being provided to the Special Permit Granting Authority prior to such transfer.

**7.4.12 Criteria.** An earth removal operation deemed by the Special Permit Granting Authority to be in the best interest of the Town:

1. shall not be injurious or dangerous to the public health or safety;
2. 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;
3. shall not result in transportation of materials on ways giving access to the land in question which will cause traffic congestion or hazards;

4. shall not result in transportation which will cause undue injury to the roadway surfaces;
5. 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;
6. 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;
7. shall not have a material adverse effect on the water quality of the Town's aquifers;
8. shall not result in an increase in runoff to the Town's drainage system or to additional runoff to adjacent lots.

## **7.5 TELECOMMUNICATION TOWERS**

**7.5.1 Purpose.** The 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:

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



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

7. To ensure that towers and telecommunications facilities are compatible with surrounding land uses.

**7.5.2 Definitions.** See Section 11, “Telecommunications Towers.”

**7.5.3 Development of Towers.** A Telecommunications 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 Zoning Board of Appeals. Application shall be made to the Zoning Board of Appeals as set forth herein.

**7.5.4 Application.** An application to develop a tower shall include:

1. 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.

2. The legal description, assessors' map and lot number, and address of the parcel of land upon which the tower is situated.

3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half (1/2) mile radius of the proposed new tower site, including town-owned property.

4. A locus plan at a scale of one inch equals 100 feet (1" = 100')

5. 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.

6. 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.

7. 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 (1/2) mile radius of the proposed tower site.

8. 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 (1/2) mile radius of the proposed tower site.

9. 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.

10. 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.

11. Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in Section 7.5.6, "Structural Requirements," of this by-law.

12. 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.

13. 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.

14. 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.

15. The Zoning 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.

16. A description of how the plan addresses any adverse impact that might occur as a result of approving the application.

17. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the application.

18. 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

19. 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.

20. The Zoning 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.

**7.5.5 Setbacks.** All towers shall be set back on all sides a distance not less than equal to the height of the tower. 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. Setback requirements may be modified, as provided in Section 7.5.7, "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.

**7.5.6 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.

**7.5.7 Separation or Buffer Requirements.** 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.

1. 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.
2. 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.
  - a. 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. 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.
  - c. Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven hundred and fifty (750) feet.

**7.5.8 Towers; Height.** 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.

1. 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.
2. 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.

**7.5.9 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.

**7.5.10 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.

**7.5.11 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.

**7.5.12 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.

1. Fencing shall be provided to control access to the towers and shall be compatible with the landscape. So-called, razor wire is prohibited.
2. Signs 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.

**7.5.13 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.

**7.5.14 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.

**7.5.15 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:

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;
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.

**7.5.16 Modification of Pre-Existing Towers.**

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 non-conforming 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 7.5.7, "Separation or Buffer Requirements," 7.5.18, "Certification and Inspections," and 7.5.19, "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 non-conforming 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.

**7.5.17 Non-conforming Structures.** Except as provided in this section, a non-conforming 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.

**7.5.18 Certifications and Inspections.** 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 7.5.4 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. 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. 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.

**7.5.19 Maintenance.** 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. 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. 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. All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel. All towers shall maintain compliance with current RF emission standards of the FCC. 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.

**7.5.20 Criteria for Site Plan Approval and Special Permits.** The Zoning 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.
4. In the case of a requested modification to the setback requirement, Section 7.5.5, "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.
5. In the case of a request for modification to the separation and buffer requirements from other towers of Section 7.5.7, "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 7.5.7.

6. In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Section 7.5.7, 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.

7. 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.

**7.5.21 Abandonment.** If any tower shall cease to be used for a period of three hundred sixty five (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.

1. 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.

## **7.6 WIND ENERGY**

**7.6.1 Purpose.** The purpose of this Section is

1. to provide by special permit for the construction and operation of wind facilities;

2. to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city or town; and
3. provide adequate financial assurance for decommissioning.

**7.6.2 Applicability.** This Section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this section. It does not apply to single stand-alone turbines under sixty (60) kilowatts of rated nameplate capacity. Any physical modifications to existing wind facilities that materially alters the type or increases the size of such facilities or other equipment shall require a special permit. Wind monitoring devices for non-commercial use which are not more than forty (40) feet in height shall be exempt from this Section.

1. The construction of a wind facility shall be permitted in any zoning district subject to the issuance of a special permit and provided that the use complies with all requirements set forth in this Section. All such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse safety and environmental impacts.
2. Wind monitoring or meteorological towers shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements

**7.6.3 Definitions.** See section 11, “Wind Energy.”

**7.6.4 Special Permit Required.** No wind facility over sixty (60) kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit. The Special Permit Granting Authority shall be the Zoning Board of Appeals.

**7.6.5 Compliance with Laws, Ordinances and Regulations.** The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

**7.6.6 Application Process and Requirements.** An application for a wind facility shall be filed in accordance with the rules and regulations of the Board of Appeals. Each application for a special permit shall be filed by the applicant with the Town Clerk. The applicant shall provide the Board of Appeals with five (5) copies of the application. All

plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

1. Name, address, phone number and signature of the applicant or his agent, as well as all co-applicants or property owners or their agents, if any.
2. The name, contact information and signature of any agents representing the applicant.
3. Documentation of the legal right to use the wind facility site.
4. The applicant shall fully comply with all the requirements of Section 10.5 of this By-law regarding site plan approval.
5. If required under this Section, the applicant will provide with the application a description of financial surety and certification of height approval from the FAA.
6. The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility. The applicant shall also provide a form of security through bond or otherwise to cover the cost of the Town enforcing any provisions of the special permit.

**7.6.7 Site Control.** At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

**7.6.8 Height.** Wind facilities shall be no higher than two hundred fifty (250) feet above the current grade of the land, provided that the Board of Appeals may allow wind facilities to exceed two hundred fifty (250) feet if:

1. the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
2. Such excess height is necessary to prevent financial hardship to the applicant; and
3. the facility satisfies all other criteria for the granting of a special permit under the provisions of this Section.

**7.6.9 Setbacks.** Wind turbines shall be set back a distance equal to 1.0 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and one hundred (100) feet from the nearest property line and private or public way. The Zoning Board of Appeals has specific authority to determine the number of wind facilities that may be located on any one site and the distance away from one another in order to assure public safety and minimal impact on the environment. The Board of Appeals may reduce the minimum setback distance as appropriate based on site-specific considerations if the project satisfies all other criteria for the granting of a special permit under the provisions of this Section.

**7.6.10 Design Standards.**

1. Color and Finish . The Board of Appeals shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.
2. Lighting. Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
3. Signage. Signs on the wind facility shall comply with the requirements of the town sign regulations
4. Advertising. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
5. Utility Connections. Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
6. Appurtenant Structures. All appurtenant structures to such wind facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this particular site. Whenever

reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

7. Support Towers. Monopole towers are the preferred type of support for the Wind Facilities.

#### **7.6.11 Safety, Aesthetic and Environmental Standards.**

1. Emergency Services. The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the Board of Appeals. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan.

2. Unauthorized Access. Wind turbines or other structures which are part of a wind facility shall be designed to prevent unauthorized access.

3. Noise. The wind facility and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the Board of Appeals agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source increases the broadband sound level by more than 10 dB(A) above ambient. These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from the Department of Environmental Protection (DEP). An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards if required by the Board of Appeals. The Board of Appeals, in consultation with DEP, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

4. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

**7.6.12 Decision.** No special permit shall be granted unless the Board of Appeals finds in writing that:

1. the specific site is an appropriate location for such use;

2. the use is not expected to adversely affect the neighborhood;
3. there is not expected to be any serious hazard to pedestrians or vehicles from the use;
4. no nuisance is expected to be created by the use; and
5. adequate and appropriate facilities will be provided for the proper operation of the use.

Such permits may also impose reasonable conditions and safeguards and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should they occur.

**7.6.13 Monitoring and Maintenance.** The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction. The applicant shall provide to the Canton Building Commissioner for his or her review every five (5) years a report signed by a structural engineer as to the current structural soundness and condition of the wind energy structure or structures.

**7.6.14 Modifications.** All material modifications to a wind facility made after issuance of the special permit shall require approval by the Board of Appeals as provided in this Section.

**7.6.15 Decommissioning.** Any wind facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than one hundred fifty (150) days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

1. Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.

3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The special permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

**7.6.16 Abandonment.** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Board of Appeals. The Board of Appeals shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility.

**7.6.17 Financial Surety.** The Board of Appeals may require the applicant for utility scale wind facilities to provide a form of surety through a bond or otherwise to cover the cost of removal in the event the town must remove the facility. The amount of said surety shall be determined by the Board of Appeals, but in no event shall the amount exceed more than one hundred twenty five (125) percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

**7.6.18 Term of Special Permit.** A special permit issued for a wind facility shall be valid for twenty five (25) years, unless extended or renewed. The time period may be extended or the permit renewed by the Board of Appeals upon satisfactory operation of the facility. Request for renewal must be submitted at least sixty (60) days prior to expiration of the special permit. Submitting a renewal request shall allow for continued operation of the facility until the Board of Appeals acts. At the end of that period (including extensions and renewals), the wind facility shall be removed as required by this section.

1. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

## **7.7 SPECIAL REQUIREMENTS FOR REGISTERED MARIJUANA DISPENSARIES**

### **7.7.1 Purposes**

1. To provide for the establishment of Registered Marijuana Dispensaries (“RMDs” in appropriate places and under strict conditions in accordance with Chapter 369 of the Acts of 2012, An Act For The Humanitarian Medical Use of Marijuana (the “Act”) and 105 CMR 725.00 et seq. (the “Regulations”).
2. To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
3. To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMDs.

### **7.7.2 Applicability**

1. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section 7.7.
2. No RMD shall be established except in compliance with provisions of this Section 7.7.
3. Nothing in this Section 7.7 shall be construed to supersede federal and/or state laws governing the sale and/or distribution of marijuana.
4. If any provision of this Section 7.7 or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section 7.7, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section 7.7 are severable.

**7.7.3 Definitions.** Registered Marijuana Dispensary shall mean a “Medical marijuana treatment center” to mean a not-for-profit entity, as defined by Massachusetts law only, registered under the Act and Regulations, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. Marijuana for Medical Use shall mean Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in the Act and Regulations.



Marijuana is the substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

#### **7.7.4 Eligible Locations for Medical Marijuana Facilities.**

1. Registered Marijuana Dispensaries may be allowed by Special Permit from the Canton Zoning Board of Appeals as Special Permit Granting Authority (“SPGA”) in the Industrial Zoning District provided the facility meets the requirements of this Section 7.7.

#### **7.7.5 General Requirements and Conditions for all Registered Marijuana Dispensaries**

1. All RMDs shall be contained within a building or structure.
2. No RMD shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
3. An RMD shall not be located in a building that contains any medical doctors offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
4. The hours of operation of an RMD shall be set by the Special Permit Granting Authority, but in no event shall said RMD to open and/or operating between the hours of 8:00 PM and 8:00 AM.
5. No RMD shall be located on a lot which abuts a residential zoning district or within 500 feet from any residential zone or district, or residential development. No RMD may be located 500 feet from any public or private school; house of worship; day care center; or park, playground, playfield or recreation facility or other facility in which children commonly congregate.
6. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an RMD.
7. No RMD shall be located inside a building containing residential units, including without limitation transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
8. Signage for the RMD shall include the following language: “Registration card issued by the MA Department of Public Health required.” The required text shall be a minimum of two inches in height.
9. RMDs shall provide the Canton Police Department, Fire Department, Building Commissioner and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key holders who can be contacted if there are operating problems associated with the establishment.

### 7.7.6 Special Permit Requirements

1. An RMD shall only be allowed by special permit from the Zoning Board of Appeals as Special Permit Granting Authority in accordance with G.L. c. 40A, §9, subject to the following requirements, conditions and limitations.
2. A special permit for an RMD shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority: cultivation of Marijuana for Medical Use (horticulture) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
3. In addition to the application requirements set forth in this Section 7.7 a special permit application for an RMD shall include the following:
  - a. The name and address of each owner of the RMD;
  - b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the RMD;
  - c. Evidence of the Applicant's right to use the site for the RMD, such as a deed, or lease;
  - d. If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names and individuals;
  - e. A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor;
  - f. Proposed security measures for the RMD, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.
4. **Mandatory Findings.** The Special Permit Authority shall not issue a special permit for an RMD unless it finds that: the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11; the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and the applicant has satisfied all of the conditions and requirements of this Section 7.7;
5. **Annual Reporting.** Each RMD permitted under this Bylaw shall as a condition of its special permit file an annual report with the Special Permit Granting Authority and the Town Clerk no later than January 31<sup>st</sup>, providing a

copy of all current applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit and appear before the SPGA if requested by the SPGA.

6. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as an RMD. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 7.7.
7. The applicant shall post a bond before issuance of a building permit to cover costs for the removal of the RMD in the event the Town must remove the RMD. The value of the bond shall be based upon the ability to completely remove all the items associated with the RMD and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the SPGA with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the Town to remove the RMD at prevailing wages.

#### **7.7.7 Abandonment or Discontinuance of Use**

1. A Special Permit shall lapse if not exercised within one year of issuance.
2. An RMD shall be required to remove all material, plants equipment and other paraphernalia: prior to surrendering its state issued licenses or permits; or within six months of ceasing operations; whichever comes first.

#### **7.7.8 Hardship Cultivation of Marijuana**

1. The hardship cultivation of marijuana under a hardship registration in any zoning district shall occur only in compliance with all of the requirements of 105 CMR 725.035.
2. Cultivation and storage of marijuana under a hardship regulation shall occur only in the primary residence of the registered qualifying patient or personal caregiver;
3. Cultivation and storage of marijuana under a hardship regulation shall not occur in any accessory building or in the yard or other area outside the primary residence of the registered qualifying patient or personal caregiver;
4. Cultivation and storage of marijuana under a hardship regulation shall be in an enclosed, locked, indoor area accessible only to the registered qualifying patient or his or her personal caregiver(s);
5. The hardship cultivation and storage of marijuana shall not be visible or otherwise perceptible from the street or other public areas, including without limitation:
  - a. Visual observation;

- b. Noise in excess of the maximum noise level permissible pursuant to applicable law;
  - c. Smell or odor.
- 6. The hardship cultivation of marijuana under a hardship registration in any zoning district shall occur only in compliance with all applicable building, sanitary and safety codes and shall be conducted in a safe manner that does not endanger the public health, safety or welfare or create a risk of fire or public nuisance.
- 7. The hardship cultivation of marijuana under a hardship registration in any zoning district shall not occur within the common area of any multifamily residential use.
- 8. The Building Inspector as Zoning Enforcement Officer may inspect the cultivation and/or storage site of a registered qualifying patient with a hardship cultivation registration, or the cultivation site of his or her personal caregiver(s), at any time. Acceptance of a hardship cultivation registration by a registered qualifying patient constitutes consent for such inspection of the cultivation and/or storage site.
- 9. All registered qualifying patients or their personal caregivers shall provide annual written notice to the Building Inspector that they are engaged in the hardship cultivation of marijuana. Such written notice shall state the address at which the hardship cultivation or storage of marijuana is occurring and the specific enclosed, locked area accessible only to the registered qualifying patient or his or her personal caregiver(s) in which the hardship cultivation or storage of marijuana is occurring.

## 7.8

### **Temporary Moratorium on the Sale and Distribution of Recreational Marijuana**

- 7.8.1 Purpose:** By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and the Cannabis Control Commission is required to issue regulations regarding implementation by September 15, 2017. The time period for issuance of the regulations by the Cannabis Control Commission has been extended by six months to March 15, 2018

Currently under the Zoning By-Law, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the town and any regulations promulgated by the States Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raises novel and complex legal, planning, and public safety issues. The town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning By-Law regarding regulation of Recreational Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town by this Section 7.8 adopts a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning By-Law in a manner consistent with sound land use planning goals and objectives.

### **7.8.2 Definitions.**

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

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

“Marijuana Cultivator”, an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

“Marijuana establishment”, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

“Marijuana product manufacturer”, an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

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

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

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

### **7.8.3 Temporary Moratorium.**

For the reasons set forth above and notwithstanding any other provision of the Zoning By-Law to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and Marijuana Retailers. The moratorium shall be in effect through June 30, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning By-Law to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

## **SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS**

### **8.1 ACCESSORY APARTMENT IN SINGLE FAMILY DWELLING**

**8.1.1 Special Permit Required.** The Board of Appeals may issue a Special Permit for an accessory apartment in a detached, single family dwelling in all residential districts provided that each of the following requirements are met.

1. The “effective date of this by-law” is January 1, 1989.

#### **8.1.2 Requirements.**

1. 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.
2. There shall be not more than one (1) accessory apartment within a single family dwelling.
3. There shall be no boarders or lodgers within either unit of a dwelling with an accessory apartment.

4. The lot shall be at least ten thousand (10,000) square feet in area; or the minimum required for each residential zone, whichever is greater.
5. The existing floor area of the dwelling shall have at least two thousand (2,000) square feet as of the effective date of this by-law, which amount shall be verified in the records of the Building Inspection Department or on a document, "Total Living Areas of Dwellings as of the effective date", prepared by the Board of Assessors.
6. The maximum net floor area of the accessory apartment shall not exceed thirty (30) percent of the net floor area of the dwelling as of the effective date of this by-law.
7. There shall not be more than two (2) bedrooms in an accessory apartment.
8. Approval shall be obtained from the Board of Health, Sewer and Water Department and Conservation Commission and other Boards, as required.

**8.1.3 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 single family dwelling, subject further to the following requirements:

1. All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
2. 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.
3. Any new entrance shall be located on the side or in the rear of the dwelling.
4. Where there are two (2) or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one (1) appears to be the principal entrance and other entrances appear to be secondary.

**8.1.4 Off Street Parking.** There shall be provided at least two (2) off-street parking spaces for the principal dwelling unit and at least one (1) 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:

1. Each parking space and the driveway leading thereto shall be bituminous concrete paving or other approved surface.

2. No motor vehicles shall be regularly parked on the premises other than in such a parking space.

3. Where there are more than two (2) 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.

#### **8.1.5 Procedures.**

1. No accessory apartment shall be constructed without issuance of a building permit by the Building Commissioner.

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.

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 (3) years. Said permit shall be automatically renewed for a subsequent three year term unless the Zoning Board of Appeals determines before the end of any said term that the permit should be reviewed by the Board and by the Building Commissioner. If After said review the Board determines that there may be violations of the terms of the permit, the Board shall hold a hearing pursuant to M.G.L. c. 40A, s.11. If after said hearing the Board determines that there have been violations the Board may amend the permit to address the violations, rescind the permit or recommend that the Building Commissioner take other enforcement action. The permit holder shall have a right of appeal pursuant to M.G.L. c.40A , s.17.

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.

**8.1.6 Affordable Accessory Apartments.** 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 (1)



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 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.
2. 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.
3. As a condition of this special permit, Owners of existing and proposed accessory apartments shall strive to meet the conditions and requirements of Section 8.1.
4. The Owner permitted under this by-law shall be subject to a minimum fifteen (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.
5. 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.
6. 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.
7. Affordable Accessory Apartments created under this provision shall only be rented to a person or persons meeting the Canton Housing Authority guidelines for moderate income households, in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). For purposes of this Section , moderate income households 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.

8. 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.

9. 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.

10. The Zoning Board of Appeals may set filing fees to cover administrative costs related to the special permit procedure.

## **8.2 MULTIFAMILY DWELLINGS**

**8.2.1 General.** Multifamily dwellings may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements.

### **8.2.2 Requirements.**

1. Such dwelling is located on a lot having an area larger than the minimum hereafter required for the construction of a single 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;

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

3. The lot has a minimum frontage of one hundred fifty (150) feet and at least two (2) 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 (75) linear feet.

4. 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 8.2, at least ten percent (10%) of the dwelling units, in no case less than one (1) unit, shall be deed restricted in perpetuity as "Affordable Units" as defined in the applicable regulations of the Department of Housing and Community Development.

5. Notwithstanding the prior subsections of this by-law, the Board of Appeals may, in a specific case, issue a special permit for a multifamily dwelling 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 single 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.

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

7. No multi-family dwelling 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 Section 10.5.

8. Independent Senior Living Apartments, age-restricted, but not considered an assisted living facility or long-term care facility shall be treated as a multi-family dwelling.

### **8.3 BOARDING OR LODGING HOUSE**

**8.3.1 General.** A boarding or lodging house may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements:

#### **8.3.2 Requirements.**

1. The building shall have the external appearance and general aspect of a one-family dwelling, or
2. The building shall be located on a lot that abuts a Non-Residential Zoning District, or shall be 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.

### **8.4 CONVERSION OF CERTAIN SINGLE FAMILY DWELLINGS**

**8.4.1 General.** The conversion and/or use of a single family dwelling existing on March 8, 1937, as a dwelling for not more than two (2) families, or as a convalescent or nursing home, boarding or lodging house, or tourist home may be authorized by special permit from the Board of Appeals subject to the following requirements.

#### **8.4.2 Requirements.**

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.
2. No exterior enlargement is made which, together with any changes made during the preceding five (5) years, increases by more than twenty-five (25%) percent of the area of the dwelling.
3. No change is made in the external appearance and general aspect of such dwelling which alters its one-family character.

## **8.5 CARRIAGE HOUSE**

In any residential district, the Board of Appeals may allow by special permit, the conversion of any accessory structure, such as a barn, carriage house or other such building that predates the adoption of Zoning Regulations by the Town of Canton in 1937, into a separate dwelling unit. All of the following conditions must be met for the Board of Appeals to issue a Special Permit:

1. No exterior enlargement in footprint may be permitted. Essentially the structure must contain the same cubic volume pre and post conversion.
2. Exterior change to fenestration or doors must be designed to imitate the original use of the structure, and to conceal the converted use.
3. A dwelling unit created under this section of the By-Laws shall be limited to two (2) bedrooms.
4. No more than one (1) additional dwelling unit may be created per lot under this section of the by-law irrespective of how many eligible accessory structures may exist on a lot.
5. Approval shall be obtained from the Board of Health, Sewer and Water Department and Conservation Commission and other Boards, as required.
6. There shall be provided at least two (2) off-street parking spaces for principal dwelling unit and at least one (1) off-street parking space for the carriage house per bedroom. In order to maintain the appearance of a single family neighborhood all parking spaces on the lot shall be subject to the following conditions and requirements:
  - a) Each parking space and the driveway leading thereto shall be bituminous concrete paving or other approved surface.
  - b) No motor vehicles shall be regularly parked on the premises other than in such a parking space.
  - c) Where there are more than two (2) 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.

## **8.6 FLEXIBLE DEVELOPMENT**

**8.6.1 Purpose.** The purpose of this Section is:

1. to promote a more efficient use of land in harmony with its natural features;
2. to preserve common open land for conservation, agriculture, open space, and recreational use;
3. 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.

**8.6.2 Applicability.** Flexible Development is allowed by special permit from the Planning Board. A Flexible Development may developed in the Residence B, Residence A, and Residence AA Districts. 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 this By-law. All other zoning requirements found elsewhere in this By-law will continue to apply within the Flexible Residential Development unless this Section or a special permit states otherwise.

**8.6.3 Definitions.** See Section 11, “Flexible Development.”

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

**8.6.5 Site Plans.** The applicant shall prepare a site plan in conformance with the Planning Board’s Rules and Regulations. The site plans shall provide information consistent with information required by the Planning Board for approval of a preliminary subdivision plan.

**8.6.6 Procedures.**

1. Filing an Application. An applicant for a Flexible Development shall file an application for a special permit with the office of the Planning Board which 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.

2. 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 thirty five (35) days of receipt shall be deemed lack of opposition.

**8.6.7 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 this By-Law 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:

1. 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 Development, to assure compliance with the purposes of this By-law.

2. A summary of the environmental concerns relating to the proposed plans. The environmental summary would include a site analysis plan showing wetlands, slopes over fifteen (15%) percent, soil conditions, fall water tables, areas within the Floodplain Districts, Groundwater Protection Districts, and such other natural features as the Planning Board may request.

3. 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.

4. 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.

**8.6.8 Standards.**

1. **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:

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.

2. **Number of Lots.** The number of lots within any Flexible Development shall be determined by the Planning Board to assure compliance with the purposes of this Section, and shall not exceed the number of lots shown on the Yield Plan. The Yield Plan shall show the maximum number of lots that could be developed under a conventional subdivision plan in accordance with applicable zoning. The Yield Plan shall depict wetland resource areas based upon an Order of Resource Area Delineation or Order of Conditions. The Planning Board shall consider any information submitted by the Conservation Commission regarding the consistency of the Yield Plan with the Massachusetts Wetlands Protection Act and the Canton Wetlands Bylaw. The applicant shall bear the burden of proof with regard to the number of lots shown on the Yield Plan.

3. **Dimensional Regulations.** All dimensions shall comply with the provisions of the lot dimensional regulations of this subsection.

<b>Required</b>	<b>SRAA</b>	<b>SRA</b>	<b>SRB</b>
Minimum Lot Size (sq. ft.)	20,000	15,000	10,000
Lot width(through the principal dwelling	70'	70'	60'
Frontage and frontage lot width (ft.)	50'	50'	50'
Front Yard Setbacks	30'	30'	30'
Side Yard Setbacks	15'	15'	15'
Common open land (%)	30	25	20

**8.6.9 Common Open Land.** 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.

1. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one (1) or more of the characteristics outlined in Section 8.6.1 is included in the proposed open space.
2. Common open land may be used for passive and active residential recreational purposes such as swimming pools, walking trails and tennis courts.

**8.6.10 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, to the town, which shall accept it for park or open space use; or to another non-profit conservation organization approved by the Planning Board, the principal purpose of which is the conservation of open space; or 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:

1. Mandatory membership in an established homes association as a requirement of 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;



2. 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.

**8.6.11 Decision.** The Planning Board may grant a special permit under this section only if it finds the following:

1. That the Flexible 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.

2. That the development itself impinges upon critical environmental areas such as:

a. 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. land which currently is in agricultural use or land which is suitable in size, location and soil, characteristics for agricultural use;

c. land which provides a significant wildlife habitat or which is a unique natural area;

d. Groundwater Protection Overlay District land which provides recharge to Canton's current or future municipal wells and highly favored aquifer areas.

3. That the common open space protects critical environmental areas and provides a valuable outdoor recreation resource.

a. Land which is to be developed for active or passive recreational use;

b. 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. Land which enhances scenic roadside views;

d. land providing desirable public access to existing Town or State recreational or conservation land.

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

a. enhances the protection of critical environmental areas, unique natural features, scenic vistas or potential or existing farmland;

b. provides a valuable addition to the open space resources of the Town;

c. provides for a more efficient use of land in harmony with its natural features;

d. provides for creativity in the design of developments through a carefully controlled process;

e. 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;

f. permanently preserve natural topography and wooded areas within development areas and preserves usable open space and recreation close to homes;

g. 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.

**8.6.12 Relation to Subdivision Control Act.** Planning Board approval of a special permit 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.

## **8.7 ASSISTED LIVING FACILITIES**

**8.7.1 General.** An Assisted Living Facility may be authorized by special permit by the Zoning Board of Appeals, subject to the following requirements. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board under Site Plan Review:

**8.7.2 Requirements**

- 1. Water and Sewer:** The assisted living facility site shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- 2. Roads:** All newly constructed ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- 3. Refuse:** Collection and disposal of all refuse shall be provided privately.
- 4. Utilities:** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- 5. Safety:** The assisted living facility site shall have an integrated emergency call, security, telephone and other communication system to provide monitoring for its residents and direct line connection to the Canton Fire Department.
- 6. Open Space:** At least thirty percent (30%) of the parcel shall be open space. The open space shall have a shape suitable to assure its use for areas of scenic beauty, landscaping and/or recreation purposes. At least fifteen percent (15%) of the open space shall be for recreational use by residents and visitors, such as looped pathways, setting for physical therapy, playground, courtyards, gardens, swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, residential greenhouses of not more than two hundred and fifty (250) square feet, or covered and uncovered sitting areas. Outdoor areas should be visible from resident’s rooms, interior public spaces and corridors. Seventy-five percent (75%) of open space shall be contiguous, and no piece shall be included in the calculation of open land unless at least two hundred square feet in size. Preserving existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites are a priority.
- 7. Affordable Units:** For assisted living premises containing more than ten (10) 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 8.7, at least twelve and half (12.5%) of the dwelling units, in no case less than one (1) unit, shall be deed restricted in perpetuity as “Affordable Units” as defined in the applicable regulations of the Department of Housing and Community Development.

**8.7.3 Dimensional Regulations**

**Assisted Living Facility Dimensional Regulations**

<b>Minimum Lot Size</b>	2.5 acres
<b>Minimum Non-wetland Area</b>	2.5 acres
<b>Lot Width</b>	200 feet

<b>Frontage (ft.)</b>	125 feet
<b>Lot Coverage (%)</b>	25
<b>Open Space (%)</b>	30
<b>Setbacks</b>	Determined by underlying zone
<b>Minimum Lot Area per Dwelling Unit</b>	4,000 square feet
<b>Maximum Number of Units in an Assisted Living Facility</b>	115 units
<b>Maximum Height</b>	40 feet or 3 floors, whichever is less

#### **8.7.4 Landscaping and Buffering Requirements**

1. Buffer zone: The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth or landscaping. Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section. All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.
2. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot height landscape screen or fence and through the use of appropriate landscaping.
3. All parking areas shall be screened from adjoining streets and abutting properties.
4. The Planning Board or Zoning Board may require buffer areas at specific locations along the perimeter as necessary to provide an additional visual buffer.

#### **8.7.5 Accessory Uses**

1. Garages for common use vehicles owned by the operating entity.
2. One single-story building to house snow removal, lawn maintenance, and recreational equipment. Such building shall not exceed 3,000 square feet.
3. Outdoor recreational facilities. This may include outdoor swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, gardens, residential greenhouses of not more than two hundred and fifty (250) square feet, covered and uncovered sitting areas.
4. Any and all other uses normal accessory, or incidental to an assisted living facility. Accessory uses shall comply with principal density, dimensional, and buffering requirements.

#### **8.7.6 Non-Residential Uses**

The operator of a long-term care facility may also provide optional services on the site including but not limited to local transportation, barber/beauty services, meals, laundry, exercise, healthcare, entertainment, sundries for personal consumption, and other amenities, provided:

1. Such uses serve the resident, guests, and employees of the assisted living facility only
2. Such uses are conducted within and may be entered only from within a principal building
3. There is no external evidence of such uses visible beyond the development site
4. The appearance and character of the commercial uses are compatible with a residential development. The non-residential uses are accessory uses for the assisted living facility and if the underlying assisted living facility use is discontinued the non-residential use shall not continue.

**8.7.7 Public Transportation:** Applicant shall provide shuttle service for residents to nearby public transportation facilities and other community resources.

**8.7.8 Decision:** A site plan pursuant to the provisions of Section 10.5 shall be required. The Zoning Board of Appeals may issue a special permit for a development when it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to the general or specific provisions set forth herein. The Zoning Board of Appeals may waive any or all dimensional requirements, when, in the judgement of the Zoning Board of Appeals, such action is in the public interest and not inconsistent with the provisions of this Section 8.7. 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 noncompliance of aforesaid conditions.

## **SECTION 9.0 SPECIAL DISTRICTS**

### **9.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)**

**9.1.1 Flood Hazard Areas.** Flood Hazard Areas are hereby defined as Federal Flood Plain Districts and Special Flood Hazard Areas.

**9.1.2 Special Permit Applications.** Any person desiring a special permit for any use in a Flood Hazard Area shall submit an application to the Board of Appeals. 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 (2) foot intervals. Contours shall be delineated within two hundred (200) feet of the proposed construction.

1. 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.
2. All plans required by this Section shall be certified by a Massachusetts Registered Land Surveyor or a Massachusetts Registered Professional Civil Engineer.
3. No work shall be done in a Flood Hazard Area without a permit from the Canton Conservation Commission.

**9.1.3 Limits of Authority.** Nothing contained in this Section 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.

**9.1.4 Federal Flood Plain Districts.** 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 By-law. 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 Hood Insurance Study and all explanatory matters thereon, shall be deemed to be part of this By-law and are incorporated herein by reference. The one hundred (100) year flood level is indicated on said Index and Maps as a Base 9.1.5 Federal Flood Plain Districts; Development Regulations. 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 one hundred (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 one hundred (100) year flood level.

**9.1.5 Federal Flood Plain Districts; Special Permit.** 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 one hundred

(100) year flood level more than one foot at any point. 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.

1. 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 one hundred (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.

**9.1.6 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 fifty (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.

**9.1.7 Special Flood Hazard Areas; Development Regulations.** No building shall be placed upon the land in the Special Flood Hazard Area within one hundred fifty (150) feet of the center of the Neponset River or within seventy five (75) feet of the centerline of the Canton River. There shall be no filling, dumping, excavating or altering of the land in the Special Flood Hazard Area within one hundred fifty (150) feet of the center line of the Neponset River or within seventy five (75) feet of the center line of the Canton River unless a special permit is issued by the Board of Appeals. The land in the Special Flood Hazard Area, except as provided above, may be used for any purpose otherwise permitted in the underlying district except that:

1. 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.
2. 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.
3. 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.

4. Municipal use, including but not limited to waterworks, pumping stations and parks, is permitted under this Section.

**9.1.8 Special Flood Hazard Area; Special Permits.** The Board of Appeals may issue a special permit 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, but without limiting the generality of the foregoing, the Board of Appeals shall assure:

1. 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 fifty two (52) feet above said Mean Sea Level.
2. That all structures be so designed and secured that during flooding.
3. The foundation would not be undermined.
4. The structure will not be floated off, battered off or swept away.
5. That safe vehicular and pedestrian movement to, over, and from the premises is provided on ways having a minimum elevation of no less than forty nine (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 to allow such ways to meet ways existing at the time of the adoption of this Section.
6. 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.
7. That the methods of drainage are designed in accordance with accepted engineering practice.

**9.1.9 Special Flood Hazard Areas; Special Requirements.**

1. 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.



2. 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.
3. No occupancy permit shall be issued until the Board of Appeals, the Building Commissioner, 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.
4. Where public sewerage is not available, the Board of Health and the Board of Appeals shall consider the minimum ground water level in the Special Flood Hazard Area to be fifty (50) feet above said Mean Sea Level unless data indicates a higher ground water level.

## **9.2 GROUNDWATER PROTECTION OVERLAY DISTRICT (GPOD)**

**9.2.1 Purpose.** The purpose of this Groundwater Protection Overlay District is:

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;
2. to preserve and protect existing and potential sources of drinking water supplies;
3. to conserve the natural resources of the Town of Canton; and
4. to prevent temporary and permanent contamination of the environment.

**9.2.2 Overlay District.** The Groundwater Protection Overlay District (GPOD) is an overlay district superimposed on the underlying 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 (1) of the underlying zoning districts which fall within the GPOD must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the GPOD.

**9.2.3 Establishment and Delineation of the GPOD.** 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 GPOD 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 (1"=1000 ') was prepared by Vollmer Associates and is entitled "Town of Canton Groundwater Protection District Overlay Map" dated April 1996.

1. 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.
2. 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.

**9.2.4 Permitted Uses.** The uses permitted within the GPOD shall be the uses permitted in the underlying zoning district, and not prohibited by Section 9.2.5, or requiring a special permit pursuant to Section 9.2.6, provided that all necessary permits, orders, or approvals required by local, state or federal law are also obtained.

**9.2.5 Prohibited Uses.** The following uses are prohibited within the Groundwater Protection District notwithstanding the provisions of the underlying zoning district:

1. Landfills and open dumps as defined in 310 CMR 19.006;
2. Storage of liquid petroleum products, except those incidental to the following:
  - a. Normal household use, outdoor maintenance, or heating of a structure;
  - b. Waste oil retention facilities required by statute, rule or regulation;
  - c. Emergency generators required by statute, rule or regulation;
  - d. 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.

3. Landfilling of sludge or septage as defined in 310 CMR 32.05;
4. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
5. Individual sewage disposal systems except as designed and/or maintained in accordance with the current requirements of Title 5 (310 CMR 15).
6. Storage of de-icing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
7. Storage of animal manure unless covered or contained in accordance with the specifications of the US Soil Conservation Service;
8. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) 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 excavations for building foundations, roads or utility works;
9. Facilities that generate, treat, store, or dispose of hazardous waste, Chapter 21 C and 310 CMR 30.00, except the following:
  - a. very small quantity generators, as defined under 310 CMR 30.00;
  - b. household hazardous waste collection centers and events under 310 CMR 30.390;
  - c. waste oil retention facilities required by MGL Chapter 21, section 52A.
  - d. water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
10. Automobile graveyards and junkyards, as defined in MGL Chapter 1 40B, section 1;

11. Treatment or disposal works for non-sanitary wastewater that are subject to 314 CMR 5:00 except the following;
  - a. 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;
  - b. treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
12. 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.
13. Industrial and commercial uses which discharge process wastewater on-site except to the extent as may be authorized by applicable groundwater discharge permits;
14. Stockpiling and disposal of snow and ice containing de-icing chemicals if brought in from outside the district;
15. 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.

**9.2.6 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 and under such conditions as it may require:

1. The enclosed storage of road salt or other de-icing chemicals;
2. 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;
3. Enlargement or alteration of existing uses that do not conform to the regulations of the GPOD;
4. 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 herein;

5. 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.
6. Any use that will render impervious more than fifteen (15%) percent or two thousand five hundred (2,500s.f.) 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.

**9.2.7 Procedures for Issuance of Special Permit.** Any person desiring approval of a plan under this groundwater protection district section shall submit copies of its site plan (as set forth in Section 10.5) and its application 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 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.

1. 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.

**9.2.8 Required Site Plan.** 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:

1. 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;

2. 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:

- a. 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. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
- c. 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;

3. Proposed down-gradient location(s) for groundwater monitoring well(s), should the Zoning Board of Appeals deem the activity a potential groundwater threat;

**9.2.9 Review by Town Officials.** Uses and activities in the GPOD 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 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 a 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.

1. The Town offices and agencies to which copies of Groundwater Protection District Review - Plans are filed shall, within thirty (30) 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 (30) day period a notice of intent to extend the time for filing an additional thirty (30) days.

**9.2.10 Decision.** 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 Section, 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 may grant the required special permit only upon finding that the proposed use meets the following standards, and those otherwise applicable. The proposed use must:

1. In no way, during construction or thereafter, adversely affect the existing or potential duality or quantity of water that is available in the Groundwater Protection District; and
2. Be designed to avoid substantial disturbances of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed;

**9.2.11 Violations.** Written notice of any violations of this Section 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 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 Commissioner, 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.

**9.2.12 Regulations.** 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.

**9.2.13 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.

### **9.3 ECONOMIC OPPORTUNITY OVERLAY DISTRICT (EOOD)**

**9.3.1 Purpose.** The Economic Opportunity Overlay District (EOOD) is established for the following purposes:

1. 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
2. to provide additional planning flexibility for projects located in the Economic Opportunity District to enhance the coordination of the environment and natural features of development sites with potential project designs.

**9.3.2 Overlay District.** The Economic Opportunity Overlay District is an overlay district superimposed on the underlying zoning district. The provisions contained in the EOOD 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 EOOD are also subject to the requirements of this Section. Uses that are prohibited in the underlying zoning districts shall not be permitted in the EOOD except as expressly stated in this Section.

**9.3.3 Applicability.** The EOOD 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:

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

**9.3.4 Permitted Uses.** The uses permitted within the EOOD shall be the uses permitted in the underlying zoning district.



**9.3.5 Waiver of Restrictions.** Within the EOOD, to encourage development therein, the following provisions shall supersede any conflicting provisions found elsewhere in this By-law:

1. **Structured Parking.** 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 Section 6.1 if the applicant demonstrates as part of the site plan review that:

- a. the applicant has available space on the Premises to comply with the otherwise applicable parking requirements of the By-law, and
- b. 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 (7) feet.
- c. 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 (30) feet as measured from average finished grade to the top of the uppermost deck (except for non-habitable structures, including walls and stairwells, or extend more than twenty-four (24) feet below average finished grade level.

2. **Height.** The Maximum Height for any building located on a lot wholly within the EOOD shall be increased by one (1) 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 Section 4.0; provided, however, that the maximum increase in allowable height available hereunder shall be twenty (20) feet, so that in no event shall the maximum height of any building in an EOOD exceed sixty (60) feet (except for non-habitable structures as provided in Section 4.0. The provisions of this paragraph shall not apply to any above grade structured parking.

#### **9.4 MIXED USE OVERLAY DISTRICT (MUOD)**

**9.4.1 Purpose.** The purpose of the Mixed Use Overlay District (MUOD) is to:

1. Encourage mixed-use development, including professional offices, retail shops, and multi-family housing in areas other than the Central Business District;

2. 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;
3. Create regulatory procedures for determining appropriate locations for uses defined herein;
4. Provide for development in a manner that strives to maintain the residential character of the MUOD and nearby neighborhoods while striving to conserve environmental features, woodlands, wet areas, open spaces, areas of scenic housing beauty, views and vistas.

**9.4.2 Overlay District; Applicability.** The MUOD 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 MUOD are less restrictive or provide for uses or structures not otherwise available in the underlying district(s). In such cases the requirements of the MUOD may supercede the underlying zoning regulations upon the issuance of a special permit from the Zoning Board of Appeals.

**9.4.3 Locations and Eligibility.** No parcel shall be placed in the MUOD unless it contains two (2) contiguous upland acres and abuts a Business District other than the Central Business District.

**9.4.4 Definitions.** See Section 11, "Mixed Use Overlay District."

**9.4.5 Mixed Use; Special Permit.** A Mixed Use may be authorized within the MUOD by a special permit from the Zoning Board of Appeals pursuant to this Section and in compliance with the standards set forth herein.

**9.4.6 Permitted Nonresidential Uses.** In a Mixed Use, Nonresidential uses shall include but not necessarily be limited to the following:

1. Professional office;
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 comprise more than twenty (20%) percent of the floor area of the restaurant.

4. Bank or similar financial institution.

**9.4.7 Prohibited Nonresidential Uses.** The following uses are specifically excluded:

1. Fast food establishments.
2. Drive-through for the sale of food.
3. Any other drive-through shall require a separate special permit from the Zoning Board in addition to the special permit for the MUOD.
4. There shall be no deliveries or pick-ups between midnight and 6:00 a.m. Monday through Friday. There shall be no deliveries or pickups between midnight and 7:00 a.m. on weekends.

**9.4.8 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 nonresidential uses.

1. One dwelling unit per five thousand (5,000) square feet of "buildable lot area," plus;
2. One thousand (1,000) gross square feet of nonresidential floor area per 10,000 square feet. of "buildable lot area" or portion thereof.

**9.4.9 Application.** An application for a special permit for construction within a MUOD shall be submitted to the Zoning Board of Appeals on forms furnished by the Zoning Board of Appeals, accompanied by the fees set forth below, the following information and data, and a development plan as described below:

1. All of the information required for site plan approval pursuant to Zoning By-laws Section 10.5;
2. 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.

3. 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.
4. 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.
5. 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.
6. Areas to be set aside for building structures, parking areas, and any easements.
7. 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.

**9.4.10 Coverage.**

1. Residential District. The Zoning Board of Appeals may approve a MUOD with no more than thirty percent (30%) lot coverage.
2. Industrial; Limited Industrial; Business Districts. The Zoning Board of Appeals may approve an MUOD with no more than forty percent (40%) lot coverage.
3. In all districts. There shall be no less than thirty percent (30%) "open space."

**9.4.11 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.

<b>REQUIREMENT</b>	<b>Residential District</b>	<b>Business, Industrial, Limited Industrial Districts</b>
Minimum lot area	2 acres	2 acres

Frontage	250 feet	150 feet
Lot width	200 feet	175 feet
Setback	60 feet	60 feet
Side yard	20	15 feet
Rear yard	25	25 feet
Building height	36 feet/3 stories	36 feet/3 stories

**9.4.12 Special Regulations.**

1. A corner lot shall have frontage on only one (1) street, as designated on the site plan, and those portions of the lot paralleling the second street shall be considered sidelines.
2. Maximum building height shall be measured as set forth in the State Building Code 780 CMR.
3. 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.

**9.4.13 Landscaping.** A buffer area of ten (10) feet shall be provided at the perimeter of the MUOD 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 10.5 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.

**9.4.14 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 MUOD 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.

1. Below grade structured automobile parking shall be permitted within the basement of buildings. There shall be one (1) parking space provided for every four (4) seats in a restaurant including any seat or stool in the bar or lounge area.

**9.4.15 Utilities.** All on-site services including electric, gas, telephone and water distribution lines shall be placed underground.

**9.4.16 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.

**9.4.17 Signage.** All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in Section 6.3.

**9.4.18 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 at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels; and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels. The day-night average sound level (Ld) 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 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).

**9.4.19 Fees.** Any fees submitted for an MUOD permit shall be reviewed by the Planning Board, pursuant to Section 3.03 of the Canton Zoning By-laws.

**9.4.20 Accessibility.** The facility shall comply with all state and federal requirements for handicap access.

**9.4.21 Municipal Improvements.** The Zoning Board of Appeals 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.

**9.4.22 Public Transportation.** Any MUOD special 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.

**9.4.23 Decision.** The Zoning Board of Appeals may issue a special permit in the MUOD when 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 10.5 shall be required.

## **9.5 NOT USED**

Section 9.5 Hotel Overlay District (HOD) was deleted at ATM May 16, 2018, Second Session.

## **9.6 NOT USED**

Section 9.6 Village Housing Overlay District (VHOD) was deleted at ATM May 13, 2019, First Session

## **9.7 LARGE SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION OVERLAY DISTRICT (SPOD)**

**9.7.1 Purpose.** The purpose of this Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District (SPOD) is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

**9.7.2 Overlay District.** The SPOD 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 SPOD are less restrictive or provide for uses or structures not otherwise available in the underlying district(s). In such cases the requirements of the SPOD shall supersede the underlying zoning regulations.

**9.7.3 Applicability.** This Section 9.7 applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This Section 9.7 also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

**9.7.4 Expedited Permitting.** A site plan shall be submitted in accordance with the requirements of Section 10.5 of this Bylaw. In order to comply with the provisions of Massachusetts General Law Chapter 25A, Section 10(c) “the Green Communities Act,” site plan review shall be expedited and no decision shall be rendered so as to preclude the issuance of a building permit more than one (1) year after the date of application.

**9.7.5 Definitions.** See Section 11.

**9.7.6 General Requirements for All Large-Scale Ground-Mounted Solar Power Generation Installations.** The following requirements are common to all solar photovoltaic installations to be sited in designated locations. The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

1. Compliance with Laws, Ordinances and Regulations. The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with all current and applicable State Building Codes.

2. Building Permit and Building Inspection. No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this Section without first obtaining a building permit.

3. Fees. The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit. The Planning Board or designated government body may adopt reasonable administrative fees and technical review fees that are commensurate for the said project.

4. Site Plan Review. Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority pursuant to Section 10.5 of this Zoning Bylaw prior to construction, installation or modification as provided in this section.

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



6. Required Documents. Pursuant to the site plan review process and in addition to documents otherwise required pursuant to Section 10.5 of this Zoning Bylaw, the project proponent shall provide the following documents:
- (a) A site plan showing:
    - i. Property lines and physical features, including roads, for the project site;
    - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
    - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
    - iv. One (1) or three (3) line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
    - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
    - vi. Name, address, and contact information for proposed system installer;
    - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
    - viii. The name, contact information and signature of any agents representing the project proponent; and
  - (b) Documentation of actual or prospective access and control of the project site;
  - (c) An operation and maintenance plan;
  - (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);

(e) Proof of liability insurance; and

(f) Description of financial surety that satisfies Section 9.7.10.3.

7. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

8. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

9. Utility Notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

10. Dimension and Density Requirements.

(a) Setbacks: For large scale ground mounted solar Photovoltaic installations, front, side and rear setbacks shall be as follows:

1. Front yard: The front yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Conservation-Recreation, Residential district or a lot containing a building used primarily for residential purposes, the front yard shall not be less than sixty (60) feet.

2. Side yard. Each side yard shall have a depth at least fifteen (15) feet unless side yard abuts a railroad right-of-way; provided, however, that where the lot abuts a Conservation-Recreation, Residential district or a lot containing a building used primarily for residential purposes, the side yard shall not be less than fifty (50) feet.

3. Rear yard. The rear yard depth shall be at least twenty-five (25) feet unless the rear yard abuts a railroad right-of-way; provided, however, that where the lot abuts a Conservation-Recreation, Residential district or a lot containing a building used primarily for residential purposes, the rear yard shall not be less than fifty (50) feet.

The Board of Appeals may waive one or more setback requirements upon a demonstration by the applicant that such waiver will further the goals of this Section 9.7, provided, however, that no such waiver shall allow a large-scale ground-mounted solar photovoltaic installation within fifty (50) feet of a residential property line or within twenty (20) feet of a street.

- (b) Height Regulations. No structure shall be constructed to exceed twelve (12) feet in maximum height in this Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District (SPOD).
- (c) Appurtenant Structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks (*see* 9.7.6.10.1), open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

#### **9.7.7 Design Standards.**

1. Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. Signage. Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 6.3 of this Zoning Bylaw. A sign consistent with such Section 6.3 shall be required to identify the owner and provide a twenty-four (24) hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
3. Utility Connections. Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

### **9.7.8 Safety and Environmental Standards.**

1. Emergency Services. The large-scale ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
2. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and Bylaws.

### **9.7.9 Monitoring and Maintenance.**

1. Solar Photovoltaic Installation Conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
2. Modifications. All material modification to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

### **9.7.10 Abandonment and Decommissioning.**

1. Removal Requirements. Any large-scale ground-mounted solar photovoltaic installation, which has reached the end of its useful life or has been abandoned consistent with Section 9.7.10.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal Decommissioning shall consist of:
  - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

3. Financial Surety. Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, but in no event to exceed more than one hundred twenty five (125%) percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

## **9.8 CANTON CENTER ECONOMIC OPPORTUNITY DISTRICT (CCEOD)**

**9.8.1 Sub-districts.** The CCEOD is divided into three separate and distinct sub-districts of Canton Center as follows:

- 1. **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 two thousand (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.
- 2. **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 one thousand (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.

3. **Priority Revitalization Area “C”:** That area of Canton Center that runs along Revere Street from the boundary of Priority Revitalization “A” to the intersection of the railroad bridge/tracks and Revere Street, a distance approximately 2,300 linear feet.
4. Priority Revitalization Areas “A” and “B” are shown on a map entitled “Canton Center Economic Opportunity District (Priority Revitalization Area “A” and Priority Revitalization “B”) prepared by the Canton Planning Department and dated December 20, 2004.
5. Priority Revitalization Area “C” is shown on map entitled “Canton Center Economic Opportunity District (Priority Revitalization Area “C”) prepared by Vanasse Hangen Brustlin, Inc. and dated January 5, 2015.
6. The maps described immediately above are hereby incorporated by reference in this Section 9.8.
7. Certain activities in The Priority Revitalization Areas are subject to Design Review as set forth in section 10.7.

**9.8.2 Priority Revitalization Area “A”; Purpose.** Priority Revitalization Area "A" is established for the accomplishment of the following purposes:

1. 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.
2. 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.
3. To encourage mixed-use development, including but not limited to, offices, retail shops, and multi-family housing.
4. 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 9.8 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. To permit the use of new development standards which will promote the desired changes in Canton Center.
6. To provide information on the potential impacts of a proposed development.
7. To enable the Special Permit Granting Authority (SPGA) to require adherence to "Site Development and Use Plans" in the granting of a special permit.

**9.8.3 Priority Revitalization Area “A”; Definitions.** For the special purposes of Area “A”, the following words and phrases shall have the meaning hereinafter indicated:

**Building Height:** Building height shall be limited as set forth in this Section and measured as set forth in the State Building Code 780 CMR 101.0 et seq.

**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 (M.G.L. c. 131, s. 40) and any required yard area.

**Gross square feet of nonresidential floor area:** The total nonresidential floor area contained within exterior walls but does not include basement space used for heating and utilities, storage or for automobile parking.

**9.8.4 Priority Revitalization Area “A”; 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 this Section for Priority Revitalization Area "A".

**9.8.5 Priority Revitalization Area “A”; Special Permit Granting Authority.** The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes in 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.

**9.8.6 Priority Revitalization Area “A”; Applicability.** In 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 Section 10.5 and this Section.

**9.8.7 Priority Revitalization Area “A”; Special Permit Criteria.** In addition to the specific criteria contained within Section 10.4, 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:

1. Adequacy of the site in terms of the size of the proposed use(s);
2. Adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas;
3. Suitability of the site for the proposed use(s);
4. Impact on traffic and pedestrian flow and safety;
5. Impact on the visual character of the neighborhood;
6. Adequacy of utilities, including sewage disposal, water supply and storm water drainage; and
7. Degree to which the proposed project complies with the goals of the Canton Center Revitalization Plan and the provisions of this Section.

**9.8.8 Priority Revitalization Area “A”; Special Permit Uses.** Within Priority Revitalization Area "A", the Board of Appeals may issue a special permit authorizing the following uses. 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.

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

**9.8.9 Priority Revitalization Area “A”; Standards.**

1. **Minimum Lot Size.** The minimum lot size is ten thousand (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". No



portion of a way or street, as defined by the by-law may be included in computing the minimum required "buildable lot area".

2. 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".

3. Minimum Lot Frontage and Access. Lots with over sixty thousand (60,000) sq. ft. of "buildable lot area" shall have a minimum frontage of one hundred twenty (120) feet and at least one (1) means of ingress/egress. Each means of ingress/egress shall have a continuous frontage of not less than sixty (60) feet.

4. 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 nonresidential uses.

- a. 10,000 square feet of lot area required for the first dwelling unit and 2,000 square feet of additional lot area required for each additional dwelling unit thereafter.
- b. Three thousand (3,000) gross square feet of nonresidential floor area per ten thousand (10,000) sq. ft. of "buildable lot area" or portion thereof.

5. 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. The required setback distance shall be measured from the nearest exterior line of the street in question.

- a. Required Setback Distance — 15 feet
- b. Required Side Yard Width — N/A
- c. Required Rear Yard Depth — 25 feet

6. Storage or Display. 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.

7. Change of Lot. 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.

8. 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.

**9.8.10 Priority Revitalization Area “A”; 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 two hundred (200) square feet in size.

**9.8.11 Priority Revitalization Area “A”; 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:

1. For dwelling units one (1) parking space per each bedroom.
2. 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.
3. 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 (1) 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 hearing and utilities, storage or for automobile parking.
4. Uses not listed herein shall comply with the parking space requirements of the Zoning By-Law Section 5.1 Off-Street Parking.

**9.8.12 Priority Revitalization Area “A”; Below Grade Structured Parking.** Below grade 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.

1. Below grade structured parking may be designed to allow two (2) cars to park in "tandem". In such cases, each of the two (2) "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 (2) parking spaces placed one behind another in single file.

#### **9.8.13 Priority Revitalization Area "A"; Miscellaneous Parking Requirements.**

1. 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.

2. 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 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 ten percent (10%) in the number of off street parking spaces required pursuant to this Section.

3. 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.

4. 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 6.1 Design Standards shall be considered the minimum criteria for evaluating such design.

5. 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 6.2 Loading Areas shall be considered the minimum criteria for evaluating such design.

**9.8.14 Priority Revitalization Area “A”; Signs and Advertising Devices.** The provisions of Section 6.3 Signs is adopted for the regulation and restriction of billboards, signs and other advertising devices with the Canton Center Economic Opportunity District.

**9.8.15 Priority Revitalization Area “A”; 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 twenty four (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).

**9.8.16 Priority Revitalization Area “A”; Affordable Units.** As a condition for the grant of a special permit pursuant to this Section 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, at least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four (4) units or less, the Board may decide to waive this requirement; for Occupancy by persons earning not more than eighty percent (80%) of the area median income as defined and regulated by the Commonwealth's Department of Housing and Community Development, and twenty percent (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.

**9.8.17 Priority Revitalization Area “A”; Alternative Units:** As an alternative to including affordable units as set forth immediately above, the applicant may include affordable units under Mass. Housing's Priority Development Fund where at least twenty percent (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.

**9.8.18 Priority Revitalization Area “A”; 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 herein

1. 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.

**9.8.19 Priority Revitalization Area “B”; Purpose.** The Revitalization Area "B" is established for the accomplishment of the following purposes:

1. 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.
2. 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.
3. To encourage mixed-use development of business and professional offices and multi-family housing.
4. To permit the use of new development standards which will retain the sites' present character.
5. To provide information on the potential impacts of a proposed development.
6. To enable the Special Permit Granting Authority (SPGA) to require adherence to "Site Development and Use Plans" in the granting of a special permit.

**9.8.20 Priority Revitalization Area “B”; Definitions.** For the special purposes of 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 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 Area “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 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 G.L. c. 131, ss. 40 and 40A and/or the Town’s Wetlands By-Law.

**9.8.21 Priority Revitalization Area “B”; Scope of Authority.** Revitalization Area "B" is an overlay zoning district. 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.

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

**9.8.23 Priority Revitalization Area “B”; Applicability.** In 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 Section 10.5 and this Section.

**9.8.24 Priority Revitalization Area “B”; Special Permit Criteria.** In addition to the specific criteria set forth in Section 10.4, 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:

1. Adequacy of the site in terms of the size of the proposed use(s);
2. Suitability of the site for the proposed use(s);
3. Impact on traffic and pedestrian flow and safety;
4. Impact on the visual character of the neighborhood;
5. Adequacy of utilities, including sewage disposal, water supply and storm water drainage; and
6. Degree to which the proposed project complies with the goals of the Canton Center Revitalization Plan and the provisions of this Section.

**9.8.25 Priority Revitalization Area “B”; Specially Permitted Uses.** Within Revitalization Area "B", the Board of Appeals may issue a special permit for the following uses. 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 (1) or more of the uses herein set forth as permissible by special permit.

1. Apartment houses or buildings.
2. Business and Professional offices.
3. All uses allowed by right in the underlying zoning district.

**9.8.26 Priority Revitalization Area “B”; Standards.**

1. **Minimum Lot Size.** The minimum lot size is ten thousand (10,000) square feet of lot area. The lot must be a single, contiguous site within the boundaries of Revitalization Area "B." No portion of a way or street, as defined by the by-law may be included in computing the minimum required lot area.
2. **Lot Coverage.** 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.
3. **Minimum Lot Frontage and Access.** Lots shall have a minimum of seventy-five (75) feet of continuous frontage. Each means of ingress/egress shall have a continuous frontage of not less than seventy-five (75) feet.
4. **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. 10,000 square feet of lot area required for the first dwelling unit and 4,000 square feet of additional lot area required for each additional unit thereafter.
  - b. Two thousand (2,000) gross square feet of non-residential floor area per ten thousand (10,000) sq. ft. of lot area or portion thereof.



5. **Mix of Uses.** On the ground floor of the building shall only be permitted business or professional office uses. On all above ground floors shall only be permitted multi-family residential units.
6. **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 Public Works Regulations regarding water, sewer and storm drainage, and any other applicable regulation and/or standards of the town.
7. **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.
8. **Lot Width Requirements:** Each lot shall have a lot width of not less than one hundred (100) feet at the front yard setback line and the rear yard setback line.
9. **Front Yard Setback.** Each lot shall have a front yard setback requirement of not less than thirty (30) feet and a side yard setback requirement of not less than ten (10) feet from the nearest point on any exterior wall of the building.
10. **Rear Yard Setback.** Each lot shall have a rear yard setback requirement of not less than thirty-five (35) feet.
11. **Height Regulations.** No building shall be constructed to exceed the height of the underlying zoning or thirty-six (36) feet, whichever is lower. Maximum building height shall be measured as set forth in the State Building Code 780 CMR 101.0 et seq.

**9.8.27 Priority Revitalization Area "B"; 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.

1. 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 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.

2. Areas which shall be credited toward the Open Space requirement include
  - a. Side, rear and front yard setbacks.
  - b. Buffer areas.
  - c. The area of surfaces that use natural materials (i.e. brick, bluestone, etc.) in the construction of walkways, courtyards, patios, etc.
  - d. Common Open Space.

**9.8.28 Priority Revitalization Area “B”; 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:

1. For dwelling units one (1) parking space per each bedroom.
2. Non-residential uses shall comply with the parking space requirements of the Zoning By-Law Section 6.1 Off-Street Parking.
3. 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.
4. 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.
5. 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 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 ten

percent (10%) in the number of off-street parking spaces required pursuant to this Section.

6. 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.

7. 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 6.1 shall be considered the minimum criteria for evaluating such design.

8. 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 6.2, Loading Areas, shall be considered the minimum criteria for evaluating such design.

**9.8.29 Priority Revitalization Area “B”; Signs and Advertising Devices.** The provisions of Section 6.3 are adopted for the regulation and restriction of billboards, signs and other advertising devices within the Revitalization Area "B".

**9.8.30 Priority Revitalization Area “B”; 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 at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels; and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels. The day-night average sound level (L<sub>dn</sub>) 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 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).

**9.8.31 Priority Revitalization Area “B”; Affordable Units.** As a condition for the grant of a special permit pursuant to this Section 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, at least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four (4) units or less, the Board may decide to waive this requirement; for occupancy by persons earning

not more than eighty percent (80%) of the area median income as defined and regulated by the Commonwealth's Department of Housing and Community Development and twenty percent (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.

**9.8.32 Priority Revitalization Area “B”; Alternative to Affordable Units:** As an alternative to including affordable units pursuant to Section 9.8.31, 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.

**9.8.33 Priority Revitalization Area “B”; 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 herein.

1. 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.

**9.8.34 Priority Revitalization Area “C”; Purpose.** Priority Revitalization Area “C” is established for the accomplishment of the following purposes:

1. To promote the economic health and stability of the Town by encouraging development and economic investment that will generate employment and tax revenue.
2. To provide additional planning flexibility for projects located in and near Canton Center, including enhancing the coordination of the project with the environmental and natural features of the development site.
3. To permit and encourage mixed-use development, including but not limited to, Multi-family Dwellings, Fifty-Five Years of Age or Older Housing, offices, kindergarten and pre-schools, municipal uses, historic preservation, recreational uses, retail shops and industrial uses.

4. To permit the use of new development standards, which will promote the desired changes in and near Canton Center.
5. To permit and encourage the development of open spaces which would be available for use by the general public.
6. To provide information on the potential impacts of a proposed development.
7. To enable the Special Permit Granting Authority (SPGA) to require adherence to “Development and Use Plans” in the granting of a special permit.
8. To provide for development in a manner that creates harmony between residential and non-residential neighborhoods, protects existing abutting neighborhoods, and minimizes the development impact on nearby neighborhoods, while conserving and enhancing environmental features, woodlands, wet areas, the Canton River, open spaces and areas of scenic views, beauty, and vistas such as, for example, the Viaduct.

**9.8.35. Priority Revitalization Area “C”; Definitions. For the special purposes of Priority Revitalization Area “C” only, the following words and phrases shall have the meanings hereinafter indicated.**

**Applicant:** The person or legal entity that applies for issuance of a special permit for permission to construct a Project that conforms to the requirements of this By-Law for Priority Revitalization Area “C”. The Applicant must own or be the beneficial owner of all the land included in the proposed site, or have written authorization from the owner(s) to act for him or must hold an option or contract duly executed by the owner(s) giving the Applicant the right to acquire the land to be included in the site.

**Buffer Area:** An area within the CCEOD Revitalization Area “C” adjacent to the boundaries, streams, rivers, ponds, which may not be developed except in accordance with the Massachusetts Wetlands Protection Act and its implementing regulations (MGL Chapter 131, Sections 40 and 40A, and 310 CMR 10.00) and other requirements herein.

**Building Height:** Building height shall be measured as set forth in this section 9.8 and measured as set forth in the State Building Code 780 CMR 101.0 et seq. Height shall be subject to the provisions of Section 4.3 of the By-Law except as otherwise provided in this Section 9.8.

**Buildable Lot Area:** The area of a Lot excluding any land defined as a Resource Area.

**Common Open Land:** An area of land containing no building, structure, parking areas, driveways or roadways other than those structures and/or facilities which are used for recreational and/or community use by the occupants of a Development Parcel or members of the public.

**Development Agreement:** A written agreement executed by the Board of Selectmen and the Applicant concerning the Project containing, without limitation, actions to be taken by the Applicant to mitigate potential adverse effects of the Project.

**Development Parcel:** One or more Lots within Priority Revitalization Area “C” which together are designated as a Development Parcel on a Lot Development and Use Plan. The Lots comprising a Development Parcel need not be in the same ownership. Where the Development Parcel consists of more than a single Lot, the Lots, in combination, shall be treated as the Development Parcel, may be contiguous or non-contiguous, and shall be considered one ‘Development Parcel’.

**Development Schedule:** A schedule showing the anticipated order and timing of construction and the sequence of the improvements to be built on the Priority Revitalization Area “C” site, separated into stages where applicable.

**Fifty-Five Years of Age or Older Housing:** Housing facilities (including, without limitation, in independent or congregate facilities) for individuals fifty-five (55) years of age or older as allowed under Massachusetts General Laws c. 151B, Section 4.

**Gross Floor Area:** Total floor area contained within exterior walls, excluding basement space, attic space and spaces used for heating and utilities and other mechanical apparatus, storage and/or automobile parking.

**Lot:** A single contiguous tract of land including at least the minimum amount of Buildable Lot Area required herein and located entirely within the Development Parcel and Priority Revitalization Area “C”, which may be shown on an approved definitive subdivision plan under G.L. c. 41, Section 81K or an endorsed “approval not required” plan under G.L. c. 41, Section 81P. More than one building may be located on a Lot, subject to compliance with all applicable dimensional requirements of this Section 9.8.

**Lot Development and Use Plan:** A plan approved by the SPGA for the development and use of a particular Lot within a Development Parcel pursuant to the special permit process for the Priority Revitalization Area “C”. A Lot Development and Use Plan shall comply with the plan contents requirements of Section 10.5.2 of the Zoning By-Law. The Special Permit process and the Site Plan Review process under Section 10.5.1 may occur contemporaneously.

**Mixed-Use Development:** A development that contains both residential and non-residential uses.

**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, landscape architect, real estate agent, insurance agent, or the studio of an artist, musician, teacher, or the workroom of a dressmaker, milliner, or photographer in which retail sales are incidental to office use.

**Project:** A residential, non-residential or mixed-use development for which a special permit or Special Permits is sought pursuant to Section 9.8, the Priority Revitalization Area “C” overlay provisions. The Project may be developed and constructed in multiple phases, subject to conditions to be set forth in the Special Permit(s).

**Regulations:** The applicable rules and regulations adopted by the Board of Appeals relative to special permits pursuant to M.G.L. c.40A, Section 9.

**Resource Area:** All land subject to jurisdiction under 310 CMR 10.02(1)(a) and (b) (which shall not include land subject to flooding or riverfront area).

**Small Scale Retail:** Retail stores with a gross floor area of 10,000 square feet or less.

**Upland Acres:** Land area not in a Resource Area.

All terms not defined in the provisions of this Zoning By-Law related to the Priority Revitalization Area “C” shall have the meanings ascribed to them in Section 11 of this Zoning By-Law.

### **9.8.36 Priority Revitalization Area “C”; Scope of Authority.**

Priority Revitalization Area “C” shall be an overlay district and shall not restrict the landowner’s rights relative to the underlying zoning districts. However, if the landowner elects to apply for a special permit under the provisions of this section 9.8 applicable to Priority Revitalization Area “C”, the development shall conform to the requirements of this section 9.8 for Priority Revitalization Area “C” and shall not be required to conform to the requirements of the underlying zoning districts to the extent the Project is built pursuant to a Special Permit(s).

### **9.8.37 Priority Revitalization Area “C”; Special Permit Granting Authority.**

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes with respect to Projects within the Priority Revitalization Area “C” pursued under this Section 9.8. All special permit applications shall conform to the provisions, of this Section 9.8 with respect to Priority Revitalization Area “C” and the Board of Appeals’ Rules and Regulations adopted pursuant to M.G.L. c.40A, Section 9 governing the administration of applications for special permits.

In determining whether the criteria for grant of a special permit stated in this Zoning By-Law have been satisfied, the SPGA may grant a special permit applicable to a Project in Priority Revitalization Area “C” only if the SPGA finds that the adverse impacts of the Project will be outweighed by the benefits of the project to the Town, including without limitation any mitigation and/or other benefits to be provided to the Town by the Applicant pursuant to any Development Agreement between the Applicant and the Town. Notwithstanding, the foregoing, any mitigation required under the Performance Standards contained in Section 6.7 of this Zoning By-Law may be found by the SPGA to be satisfied by the terms of a Development Agreement between the Town and the Applicant.

The SPGA may in its discretion waive any of the Standards and Criteria stated in Section 9.8.40, any of the Densities stated in Section 9.8.41 and any of the Setbacks and Yard Regulations stated in Section 9.8.42 if the SPGA finds that such waiver satisfies the criteria stated in Section 10.4.2 of this Zoning By-Law for grant of a special permit and the general conditions stated in Section 10.5.5 of this Zoning By-Law for approval of a site plan.

#### **9.8.38 Priority Revitalization Area “C”; Applicability.**

In Priority Revitalization Area “C”, 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 Lot 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 Section 10.5 and this Section.

In the event of damage or destruction to any buildings or structures originally constructed pursuant to a Special Permit and Lot Development and Use Plan issued hereunder, such buildings and structures may be rebuilt and restored consistent with the original Special Permit and such Lot Development and Use Plan without the requirement of obtaining a new Special Permit or Lot Development and Use Plan from the SPGA.

#### **9.8.39 Priority Revitalization Area “C”; Uses Permitted by Special Permit.**



Within Priority Revitalization Area “C”, the SPGA may issue a special permit authorizing the following uses. 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.

A. Residential Uses:

1. Multi-family Dwellings, including, without limitation, Townhouse style dwellings, Mid-rise style units, and ancillary facilities and amenities.
2. Fifty-Five Years of Age or Older Housing and ancillary facilities and amenities.
3. Accessory structures (whether at, below, or above grade) and surface parking, driveways and roadways, serving any uses within the Development Parcel.
4. All other residential uses allowed by right or by special permit in the underlying zoning district.

B. Non-Residential Uses:

1. Small-scale Retail stores.
2. Offices, including salesrooms and showrooms, consumer service establishments, business and professional offices, executive and administrative offices, banks and other institutions.
3. Restaurants with or without the service of alcoholic beverages (provided that if alcoholic beverages are served any bar area does not comprise more than thirty-five percent (35%) of the floor area of the restaurant), including both indoor and outdoor seating.
4. Banks or similar financial institution, including drive-through facilities.
5. Child Care Centers, Pre-Schools and Kindergartens.
6. Recreational facilities.
7. Private and public open spaces.
8. Municipal uses.
9. Accessory structures (whether at, below, or above grade) and

surface parking, driveways and roadways, serving any uses within the Development Parcel.

10. All uses allowed by right or by special permit in the underlying zoning district.
- C. The following uses are specifically prohibited within Priority Revitalization Area “C”:
1. Fast food establishments.
  2. Drive-through for the sale of food. Any other drive-through, with the exception of banks and financial institutions noted above, may be authorized by the SPGA as part of a special permit for a Priority Revitalization Area “C” Project.
- D. For Projects permitted in the Priority Revitalization Area “C” there shall be no non-resident deliveries or shipments between 10:00 p.m. and 7:00 a.m. Monday through Friday; and there shall be no non-resident deliveries or shipments between 10:00 p.m. and 8:00 a.m. on weekends.

#### **9.8.40 Priority Revitalization Area “C”; Standards and Criteria**

- A. In addition to the specific criteria contained within Section 10.4, the SPGA shall issue a special permit for development within Priority Revitalization Area C only after consideration of the project’s compliance with the following additional criteria:
1. Adequacy of the site in terms of the size of the proposed use(s);
  2. Adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas;
  3. Suitability of the site for the proposed use(s);
  4. Impact on traffic and pedestrian flow and safety;
  5. Impact on the visual character of the neighborhood;
  6. Adequacy of utilities, including sewage disposal, water supply and storm water drainage; and
  7. Degree to which the proposed project complies with the goals of the Canton Center Revitalization Plan and the provisions of this Section 9.8.

B. Minimum Development Size

1. Development Parcel Area Requirement:

- a. The minimum Development Parcel area is twenty-five acres of Buildable Lot Area determined as of the time of approval and endorsement of the application for the first Lot Development and Use Plan
- b. No portion of a public way or public street, as defined by this Zoning By-Law may be included in computing the minimum required Buildable Lot Area.

2. Lot Area Requirement:

- a. The minimum lot area is 10,000 sq. ft. of Buildable Lot Area.
- b. No portion of a public way or public street, as defined by this Zoning By-Law may be included in computing the minimum required Buildable Lot Area.

C. Building Coverage:

- 1. Development Parcel Requirement: No building on the Development Parcel shall be constructed so as to cover, together with any other buildings on the Development Parcel, more than thirty percent (30%) of the Buildable Lot Area of the Development Parcel.
- 2. Lot Requirement: No building on a Lot shall be constructed so as to cover, together with any other building on the Lot, more than fifty percent (50%) of the Buildable Lot Area.

D. Minimum Frontage and Access:

1. Development Parcel Requirement:

- a. Each Development Parcel shall have a minimum frontage of two hundred fifty (250) feet on a street or way and at least two means of ingress/egress.
- b. Each means of required ingress/egress shall have a paved width of no less than twenty-four (24) feet.
- c. Lot Requirement: Each Lot shall have a minimum frontage of fifty (50) feet on a street or way.

- E. Transition Area: Where a portion of the Development Parcel abuts another parcel which is zoned for residential purposes, a “Transition Area” of fifteen (15) feet or a screen wall of adequate height shall be provided at the perimeter of the Development Parcel along the border with such abutting parcel. The Applicant shall file a landscape plan, prepared by a Massachusetts Registered Landscape Architect that demonstrates in the opinion of the Board of Appeals sufficient plantings to provide adequate screening within such Transition Area. Buildable Lot Areas or portions thereof that area also designated as Transition Areas shall be included in the calculation of “Common Open Land”.
- a. The SPGA may reduce the width of the required “Transition Area” and modify other landscape requirements where the SPGA finds that suitable screening will be provided by other means such as fencing or topography, and that such reduction will not have material adverse impact on the surrounding neighborhood.

#### **9.8.41 Priority Revitalization Area “C”; 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. Residential Uses**

Maximum permissible densities are as follows:

1. Multi-family Dwellings including, without limitation, Townhouse and Mid-rise style dwellings and ancillary facilities and amenities:

One dwelling unit per 2,600 square feet of Buildable Lot Area in a Development Parcel.

2. Fifty-Five Years of Age or Older Housing and ancillary facilities and amenities:

One dwelling unit per 2,600 square feet of Buildable Lot Area in a Development Parcel.

##### **B. Non-Residential Uses**

Maximum permissible density is as follows:

Two thousand (2,000) square feet of Gross Floor Area per 10,000 square feet of Buildable Lot Area in the Development Parcel.

#### **9.8.42 Priority Revitalization Area “C”; 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. The required setback distance shall be measured from the nearest exterior line of the street in question.

##### **A. Development Parcel**

Each Development Parcel shall have a side yard setback of not less than ten (10) feet; except that if the side yard abuts land owned by the Town, or the East Branch of the Neponset River dam or diversion channel, of the Plymouth Rubber triple drainage culvert, such side yard shall be not less than five (5) feet. There shall be a front yard setback for any Development Parcel along Revere Street of no less than five (5) feet but there shall be no front yard setback requirement for any internal subdivision road within any Development Parcel.

1. Each Development Parcel shall have a rear yard setback of not less than five (5) feet.

##### **B. Lot**

Each lot shall have a minimum side and rear yard of fifteen (15) feet except that if a side or rear yard abuts land owned by the Town, or the Canton River dam diversion channel, or the Plymouth Rubber triple drainage culvert, such side or rear yard shall be not less than five (5) feet. There shall be no front yard setback requirement for a Lot.

##### **C. Additional Setback Requirements**

1. The SPGA may waive the setback distance where it finds such a waiver appropriate because of specific physical circumstances, such as irregular lot lines or other natural features that create open space or buffers.
2. No commercial storage or display of goods, products, materials or equipment, vending machines or similar commercial devices shall be allowed within the required front, side, or rear yard setback; provided however, that the foregoing shall not be interpreted so as to prohibit the placement in any such yards of HVAC, mechanical, plumbing, and

fire protection equipment, transformers or similar equipment utilized in connection with the operation of any buildings in any portion of the Development Parcel.

3. 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 Lot Area, frontage, building coverage, yard setback, or other dimensional provisions, of this Section.

#### **9.8.43 Priority Revitalization Area “C”; Height Regulations**

No building shall be constructed to exceed the height of (a) forty-eight feet (48’); or (b) a total of four (4) stories inclusive of enclosed parking, whichever is lower.

#### **9.8.44 Common Open Land and Public Access**

- A. Common Open Land:

Each Project shall have a minimum of thirty percent (30%) of the Development Parcel designated as Common Open Land for use by the occupants of the Development Parcel.

- B. Public Access:

A Project shall provide pedestrian access walkways to and from natural resource areas within the Development Parcel within an area or areas shown on a Lot Development and Use Plan.

#### **9.8.45 Priority Revitalization Area “C”; Parking and Loading Requirements**

For each Project 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: 1.5 parking spaces per each dwelling unit, except for Fifty-Five Years of Age or Older Housing units which shall require 1 parking space per unit.
- B. For restaurants and other on premises eating and drinking establishments: one (1) parking space for each (3) seats, plus one (1) parking space for every three (3) employees on the largest shift, subject to the discretion of the SPGA

to allow fewer parking spaces where the SPGA finds that fewer parking spaces are needed.

- 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 (1) parking space for each two hundred fifty (250) square feet of Gross Floor Area.
- D. Uses not listed in this Section 9.8.45 Parking Requirements, Subsections (A), (B), (C) or (D) shall comply with the parking space requirements of the Zoning By-Law Section 6.1 Off Street Parking.
- E. In the case of mixed-use projects, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section 9.8.45. Parking spaces for one use shall not provide the required parking spaces for any other use unless the SPGA finds that the need for parking occurs at different times.
- F. 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.

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 6.1.6 of this Zoning By-Law as to General Design shall be considered the minimum criteria for evaluating such design.

Below grade automobile parking may be permitted within the basements of buildings provided that such structured basement automobile parking is exclusively reserved the motor vehicles of residents or employees of the Project.

- G. In addition to the requirements 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 of 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 6.2, Loading Areas, shall be considered minimum criteria for evaluating such design.

#### **9.8.46 Priority Revitalization Area “C”; Signs and Advertising Devices**

The provisions of Section 6.3 of this Zoning By-Law (Signs) is hereby adopted for the regulation and restriction of billboards, signs and other advertising devices within Priority Revitalization Area “C”.

#### **9.8.47 Priority Revitalization Area “C”; Certified Acoustical Barriers**

Except for demolition, infrastructure construction, renovation or repair of existing buildings and structures and construction of new buildings and structures, 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 51.100-51.106).

#### **9.8.48 Priority Revitalization Area “C”; Moderate Income Units**

As a condition for the grant of a special permit pursuant to this Section 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, at least ten percent (10%) of the dwelling units shall be deed restricted in perpetuity for occupancy by persons earning not more than eighty percent (80%) of the area median income as defined and regulated by the Commonwealth’s Department of Housing and Community Development. The Special Permit may require that such moderate income housing units 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.

Copies of said plans are available for public review at the offices of the Planning Board, Town Clerk, the Board of Selectmen, all in Memorial Hall, and at the research desk of the Canton Public Library and on the town web site, or take any other action



in relation thereto.

## **9.9 NOT USED**

Section 9.9 Senior Housing Overlay District (SHOD) was deleted at ATM May 13, 2019, First Session

# **SECTION 10.0 ADMINISTRATION AND PROCEDURES**

## **10.1 ADMINISTRATION AND ENFORCEMENT**

**10.1.1 Building Commissioner.** The Building Commissioner shall be charged with the enforcement of this By-law 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.

**10.1.2 Enforcement.** If the Building Commissioner shall 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, he/she 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 a violation is found, he/she shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises. If, after such notice, such violation continues, with respect to any building, structure or use contrary to the provisions of this By-law, the Building Commissioner shall take such action as is necessary to enforce the provisions of this By-law.

**10.1.3 Penalty.** The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**10.1.4 Criminal Complaint.** This by-law may be enforced by criminal complaint brought in the district court in the manner provided in G.L. c. 40, s. 21. 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.

**10.1.5 Non-criminal Disposition.** This by-law may, in addition, be enforced through the non-criminal complaint procedure provided in G.L. c. 40, s. 21D. The Building Commissioner, and any local inspector designated by the Building Commissioner, 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 (\$100.00). Each day on which a violation exists shall be deemed to be a separate offense.

## **10.2 ZONING BOARD OF APPEALS**

**10.2.1 Establishment.** 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.

**10.2.2 Powers.** The Zoning Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority.
2. To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall have the authority to grant use variances.
3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

**10.2.3 Regulations.** The Zoning Board of Appeals may adopt rules and regulations for the administration of its powers.

**10.2.4 Fees.** The Zoning Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

## **10.3 PLANNING BOARD**

**10.3.1 Establishment.** The Planning Board is established under previously adopted sections 81A through 81GG of Chapter 41 of the Massachusetts General Laws as well as Article XII Section I of the General By-Laws of the Town of Canton.

**10.3.2 Powers.** The Planning Board shall have the following powers:

1. To hear and decide applications for special permits as provided in this By-law, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Board.

**10.3.3 Rules and Regulations.** The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning By-law for conduct of its business and otherwise carrying out the purposes of said Chapter 40A, and shall file a copy of such rules in the office of the Town Clerk.

**10.3.4 Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

#### **10.4 SPECIAL PERMITS.**

**10.4.1 Special Permit Granting Authority.** The Zoning Board of Appeals and the Planning Board shall serve as Special Permit Granting Authority where designated in this By-law.

**10.4.2 Criteria.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

**10.4.3 Procedures.** An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

**10.4.4 Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-law.

**10.4.5 Plans.** Unless otherwise provided the rule or regulation of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 10.5, herein.

**10.4.6 Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

**10.4.7 Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

**10.4.8 Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 3 years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

## **10.5 SITE PLAN REVIEW**

### **10.5.1 Applicability.**

No building, structure or additional impervious surface exceeding 3,000 square feet, except a residential structure for single or two (2) 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.

1. 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:

- a. 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.
- b. Any of the following other uses: Salesroom or stand for the sale of nursery, greenhouse, garden or other agricultural produce; Nursery school or other agency for the day care of children; office of a doctor or dentist not a resident of the premises; any commercial recreational use; kennel,

animal or veterinary hospital; convalescent or nursing home, boarding or lodging house, tourist home, funeral parlor or undertaking establishment, Automobile parking area.

**10.5.2 Contents.** The contents of the site plan shall consist of six (6) separate sheets prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Board. The sheets are as follows:

1. Locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board.
2. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing, and all proposed recreational facilities and open space areas.
3. Topography and drainage plan, which shall contain the existing and proposed final topography at two (2) foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.
4. Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.
5. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
6. Landscaping plan, prepared by a Massachusetts Registered Landscape Architect showing, but not limited to, the following information:
  - a. Layout of the proposed buildings, parking lots, loading bays, and access and egress roads;
  - b. Location and type of proposed site and landscape lighting;
  - c. Provision for the site surface and sub-surface drainage;
  - d. Location, general type and quality of existing vegetation, including specimen trees;
  - e. Existing vegetation to be preserved;

- f. Mitigation measures employed for protecting existing vegetation during construction and a sediment control plan;
- g. Locations and labels for all proposed plants;
- h. 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
- i. 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.

**10.5.3 Other Required Information.** The application shall also include the following reports and documents.

1. A written statement indicating the estimated time required to complete the proposed project and any and all phases thereof.
2. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this By-law.
3. Drainage calculations by a registered professional engineer. Stormwater management design must conform to DEP's Stormwater Management Policy or regulations.
4. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.
5. Information specified in Section 6.6, Performance Standards.

**10.5.4 Procedure for Approval.** 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.

1. 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.
2. 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).

**10.5.5 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:

1. Protection of adjoining premises against detrimental or offensive uses on the site.
2. Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.
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.
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.
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.

**10.5.6 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.



**10.5.7 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.

**10.5.8 Security.** 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 by one, or in part by one and in part by the other, of the methods described below:

1. **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.
2. **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. Nothings 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.

**10.5.9 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 fifty percent (50%) of the value of work originally estimated.

**10.5.10 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.

1. 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.

2. 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.

**10.5.11 Failure to Notify Applicant.** If the ZBA fails to send such a notice within sixty (60) 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.

**10.5.12 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.

**10.5.13 Town Site Inspection Program.** 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 applicant's private property for the purpose of inspecting the site work.

1. 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 and effect upon adoption by the Planning Board.

**10.5.14 Lapse.** Site plan approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

**10.5.15 Regulations.** The Board may adopt reasonable regulations for the administration of site plan review.

**10.5.16 Fee.** The Board may adopt reasonable administrative fees and technical review fees for site plan review.

**10.5.17 Appeal.** The decision of the zoning Board of appeals shall be appealed to a court of competent jurisdiction as set forth in G.L. c. 40A, s. 17.

## **10.6 FINAL UNFAVORABLE DECISIONS**

No appeal, application or petition which has been unfavorably and finally acted upon by the Special Permit Granting or the Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said Special Permit Granting Authority or Board of Appeals finds, by a unanimous vote of a board of three (3) members or by a vote of four (4) members of a board of five (5) members or two-thirds (2/3) vote of a board of more than five (5) members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one (1) of the members of the Planning Board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered. Any petition for a variance or application for a special permit which has been transmitted to the Special Permit Granting Authority or Board of Appeals may be withdrawn, without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the Special Permit Granting Authority or the Board of Appeals.

## **10.7 CANTON CENTER DESIGN REVIEW**

**10.7.1 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:

1. 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;
2. 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.
3. Promote and encourage building design and building alterations that are compatible with the existing environment and are of superior quality or appearance; and
4. Promote flexibility and variety in future development to enhance the natural

and aesthetic qualities of Canton Center.

**10.7.2 General.** 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.

**10.7.3 Model.** The applicant shall provide a three-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:

1. Proposed building(s);
2. Neighboring buildings, as determined by the CCDRB;
3. Property lines;
4. Proposed topography modeled at two (2) foot intervals;
5. Location and dimensions of drives, parking areas, walks and paths;
6. Location and characteristics of any common open space, usable open space or natural open space (Forge Pond, Canton River);
7. Proposed Landscaping;
8. Public streets and roadways;
9. Any other significant facilities or structures deemed appropriate by the CCDRB;

10. 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', subject to the discretion of the Zoning Board of Appeals to require a scale of 1" = 5'.

**10.7.4 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).

**10.7.5 Townscape Design; Statement of Principals.**

1. To promote the thoughtful design or redesign of buildings within the Canton Center Economic Opportunity District.
2. To enhance the open space between existing and proposed buildings.
3. To promote the visual and functional duality of Canton Center.
4. To promote a pedestrian friendly scale and that links the development to the surrounding buildings, neighborhood and natural environment (Forge Pond and the Canton River).
5. To provide buildings in scale and in proportion to the adjacent existing structures, open space and natural and man made environment.
6. To visually relate proposed buildings to their surroundings with respect to: Height; Street facade; 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; and Building proportions.

**10.7.6 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.

### **10.7.7 Open Space Design; Statement of Principles.**

1. To provide public access to Forge Pond and the Canton River.
2. To provide enjoyable and usable private and public open space that will add to the amenities of Canton Center.
3. 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.
4. Existing landscaping and landforms shall be incorporated into plans and used to the advantage of the design.
5. To provide small parks with benches and other amenities that are accessible to the general public.
6. Non-surface off-street parking shall be provided to minimize paved surface areas, wherever possible.

**10.7.8 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.

### **10.7.9 Preservation and Enhancement of Landscape Design; Statement of Principles.**

1. 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.
2. To provide landscaping and grades changes that either strengthen or buffer the visual relationship with surrounding areas.

3. Provide trees, shrubs and groundcovers noted for longevity, low maintenance requirements, attractive appearance, ability to survive, and screening ability.
4. Plant evergreens to provide an effective year round buffer between business and residential areas.
5. Provide plantings, planters and flower boxes to visually break up paved areas and/or to enhance an ordinary facade.
6. Plant additional street trees and landscaping in public areas when projects impact the public streetscape.
7. Provide seasonal decorations, benches, etc.

**10.7.10 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 6.3.

**10.7.11 Signs and Awnings Design; Statement of Principles.**

1. Signs and awnings shall be compatible throughout Canton Center.
2. 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.
3. 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.
4. Signs and awning shall be carefully integrated with the building facade.
5. Place sign and awnings consistent with architectural details and not in conflict with building details such as cornices, arches, lintels, pediments, windows, pilasters, etc.

6. 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.
7. Signs shall not overpower the rest of the storefront, and be attractive as designs in themselves.
8. 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.
9. Simple graphic symbols that are easily recognizable and clearly identify the particular good or services being offered are the best.
10. 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.
11. Signs and awnings shall creatively express the nature of the business in a New England "Colonial" or New England "Victorian" style.

**10.7.12 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.

1. 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.

**10.7.13 Heritage Structures Design; Statement of Principles.**

1. 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 facade renovation or new building construction that use a particular historical style or period style shall utilize accurate elements of that



style.

2. Architectural or Period elements of Heritage Structures shall be preserved during any additions, renovations, or conversions. Sign and facade alterations shall not conceal architectural elements. The covering or removal of original facade elements (columns, pilasters, fenestration, arches, lintels, and decorative elements) shall not be allowed.

3. 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.

4. The renovation or alteration of Heritage Structures shall maintain the original materials if possible; new materials shall reflect and maintain the original textures and visual effect.

5. The renovation or alteration of Heritage Structures shall 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.

6. The renovation or alteration of Heritage Structures shall maintain or replace if previously removed building details such as molding, coping lines or parapets, columns and piers.

7. The renovation or alteration of Heritage Structures shall install signage that is fitting with the image of the building, often small-scaled to remain dignified.

8. The renovation or alteration of Heritage Structures shall provide color schemes typical of original building.

9. The renovation or alteration of Heritage Structures shall remove false building fronts including fascia panels, mansard roofs, and any other material that covers and disrupts the original building detail.

10. The renovation or alteration of Heritage Structures shall conceal all mechanical equipment on roofs, including metal chimneys, and at grade 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.

11. 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.

**10.7.14 Canton Center Design Review Board; Composition.** The CCDRB shall consist of five (5) 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:

1. One (1) member of the Historical Commission or a person recommended by the Historical Commission.
2. One (1) person qualified by training and experience in architecture, landscape architecture or in the art or design profession.
3. One (1) person recommended by the Canton Downtown Business Association.
4. Two (2) persons at large.

The Planning Board shall appoint one (1) alternate member for a term of one (1) year. No elected official may be a member or alternate of the CCDRB.

**10.7.15 CCDRB; Method of Appointment.** Each member shall be appointed by the Planning Board each for overlapping terms of three (3) years so that every third (3<sup>rd</sup>) year one (1) position is vacant.

1. 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.

**10.7.16 CCDRB; Organization.** 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.

**10.7.17 CCDRB; 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 (8) 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.

1. 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.
2. The CCDRB shall within thirty (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 (30) day period and with the consent of the applicant, a request to extend the time of filing for an additional thirty (30) days.
3. 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.

**10.7.18 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:

1. Requests for sign permits submitted in accordance with the provisions of Section 6.3;
2. Requests for site plan approval submitted in accordance with Section 10.5;
3. Requests for a special permit submitted in accordance with Section 9.8, Canton Center Economic Opportunity District; and
4. Any construction, alteration, demolition or removal of a structure or site, other than any construction, alteration, demolition or removal of a single family residence which does not change the single family use of the structure or site, shall be subject to review by the Design Review Board. This includes all actions except those that are considered to be routine maintenance.

## SECTION 11.0 DEFINITIONS

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the By-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this By-law.

**Abut:** To touch; be contiguous; border on; without intervening land.

**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 space or loading bay or to other access drives or to a related maneuvering aisle

**Accessory Apartment:** A secondary dwelling unit located within a detached single family dwelling. The accessory apartment shall be 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.

**Accessory Building:** A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

**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.

**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.

**Adult Uses:** The following constitute Adult Uses for the purposes of Section 7.1:

**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 G.L. 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 G.L. 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 G.L. 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 G.L. c. 272, Section 31.

**Adult Club:** an 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 G.L. c. 272, Section 31.

**Adult day care facility:** A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs (105 CMR 158).

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

**Animal clinic or hospital:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

**Antenna Support Structure:** any building or structure other than a tower which can be used for location of telecommunications facilities.

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

**Assisted Living Facility:** An entity either for profit or non-profit (defined and regulated under M.G.L. Ch.19D, Section 1) and certified by the Department of Elder Affairs (651

CMR 12) that provides room and board, assistance in activities of daily living for three or more adult residents; and collects payments or reimbursements on behalf of residents to pay for the provision of assistance with the activities of daily living or arrange for the same. This does not include any other form of group living quarters (651 CMR 12.01) such as nursing homes, hospices, group homes, religious housing, or substance abuse detoxification or treatment facilities.

**Building:** Any structure having a roof for the shelter, housing or enclosure of persons, animals, chattels, or property of any kind.

**Building, principal:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**Business Establishment:** Each separate place of business whether or not consisting of one or more buildings.

**Business or 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 lawyer, 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.

### **Canton Center Economic Opportunity District.**

**For the special purposes of Area “A”,** the following words and phrases shall have the meaning hereinafter indicated:

**Building Height:** Building height shall be limited as set forth in this Section and measured as set forth in the State Building Code 780 CMR 101.0 et seq.

**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 (G.L. c. 131, s. 40) and any required yard area.

**Gross square feet of nonresidential 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.

**For the special purposes of 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.

**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 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 G.L. c. 131, ss. 40 and 40A and/or the Town's Wetlands By-Law.

**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.

**Child Care Center:** A day care center or school age child care program, as those terms are defined in G.L. c. 15D, s. 1A.

**Club or lodge, private:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**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.

**Constructed:** Includes the words "built", "erected", "reconstructed", "altered", "enlarged", "moved", and "placed".

**Cultural use:** includes, 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. A cultural use shall be located on a parcel of at least thirty (30) acres.

**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.

**Dwelling, Single Family:** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two-Family:** A detached building designed for or occupied by two (2) 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 (1) dwelling unit is over part of the other unit.

**Dwelling, Multifamily:** A detached building designed for or occupied by three (3) 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.

**Dwelling, Boarding or Lodging House:** A lodging house licensed under Section 23 of Chapter 140 and where rooms are let to four or more unrelated persons. A lodging house may or may not be owner-occupied. A boarding or lodging house is not a hotel, motel, short-term rental, long-term care facility, or group home.

**Earth Removal:** For the Purposes of Section 7.4, the following definitions shall apply:

**Earth material:** shall mean soil, loam, sand, gravel, stone, ledge, clay, sod, minerals, organic matter or other earth or similar material.

**Earth removal and earth removal operations:** the processing or removal of earth materials at or from any premises within the Town.

**Educational use, nonexempt:** Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

**Essential services:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Exempt uses:** Uses defined in M.G.L. Chapter 40A, Section 3: includes various uses related to agriculture, religious purposes or non-profit educational purposes, child care facilities, congregate living arrangements for disabled persons, or solar energy systems.

**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 (2) 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.

**Family:** A single individual or not more than five (5) unrelated individuals, doing 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.

**Family child care home:** Any private residence operating a facility as defined in G.L. c. 15D, s. 1A.

**Family child care home, large:** Any private residence operating a facility as defined in G.L. c. 15D, s. 1A.

**Farm stand, exempt:** Facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, twenty five percent (25%) of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least twenty five percent (25%) of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional fifty percent (50%) of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located provided that all such activities may be limited to parcels of five (5) acres or more in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture.

**Farm stand, local:** 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 percent (60%) thereof is raised on the premises (or made from produce so raised), including a salesroom or stand in connection with such purpose.

**Fast Food Establishment:** An establishment whose primary use is for the sale of fast order food for consumption on or off the premises.

**Flexible Development:** For the Purposes of Section 8.5, the following definitions shall apply:

**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.

**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.

**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.

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

**Funeral home:** Facility for the conducting of funerals and related activities such as embalming.

**General or personal service establishment:** Any of the following service establishments and the like 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, hand or self service laundry, household appliance repair shop, interior decorating studio, meeting hall for hire, photographic studio, shoe or hat repair shop, tailor shop, typewriter repair shop.

**Groundwater Protection Overlay 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. The following definitions shall apply in Section 9.2.

**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 Overlay District.

**Healthcare facility/clinic:** Any facility whether for profit or non-profit, which provides out-patient ambulatory medical, surgical, dental, physical rehabilitation, or mental health services, as licensed and defined by the Massachusetts Department of Public Health (105 CMR 140). Clinics do not include hospitals, medical offices, or substance abuse detoxification or treatment centers; Healthcare facilities/clinics include urgent care, primary care, specialists, outpatient, day surgery, rehabilitation and sports, mental health, certified home health agencies, physical therapy and speech pathology, renal dialysis facilities, temporary nursing agencies.

**Home 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.

**Home occupation, intensive:** 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, subject to Section 3.2.3 herein.

**Home occupation, non-intensive:** 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 such use is clearly incidental and secondary to the use of the premises for dwelling purposes and subject to the provisions of Section 3.2.2. In particular, a home occupation may include, but are not limited to, the office of a lawyer, doctor, dentist, psychologist, social worker, 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.

**Hospice:** An inpatient facility licensed by the Department of Public Health (105 CMR 141) providing palliative and supportive care and other services by an interdisciplinary team under the direction of hospice administration to terminally ill patients with limited life expectancy and to their families. Services may be provided at home, in the community, and in a facility. Services might include nursing, social services, volunteer services, and counseling services. Home health agencies and temporary nursing agencies offering hospice care are considered clinics.

**Hospital:** An institution licensed by the Department of Public Health (105 CMR 130) providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including, as an integral part of the institution, related facilities, including laboratories, outpatient facilities, training facilities, medical offices, and staff residences. "Hospital" does not include long term care facilities, substance abuse detoxification or treatment centers, or health care facilities/clinics.

**Hotel or motel:** The following definitions shall apply for hotels and motels.

**Standard hotel or motel:** A building or buildings intended and designed for transient or overnight lodging (excluding extended stay, see below), divided into

separate units within the same building without kitchenette facilities and with or without a public dining facility. No occupant of such hotel or motel may claim residency at such location.

**Extended Stay Lodging:** Hotel, motel, or guest quarters that offer rooms by the day, week, or longer to transient guests, which rooms contain kitchenette or cooking facilities, and may or may not contain a restaurant within the facility. Such cooking facilities may include a refrigerator, two (2) burner stoves, without oven, a microwave oven, dishwasher and sink and other permissible accessory uses authorized by special permit from the Special Permit Granting Authority as set forth herein. Such units shall not offer extended stay lodging for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four (4) month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**Independent Senior Living Apartments:** Multi-family buildings containing three or more dwelling units, which building houses only residential uses intended for individuals 55 years or older, and/or families with at least one family member aged 55 and older. Independent Senior Living Apartments shall be considered multi-family dwellings for the purposes of Section 6.1.1 and Section 8.2.

**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).

**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.

**Kennel, commercial:** A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.

**Large Scale Ground Mounted Solar Photovoltaic Overlay District:** For the purposes of Section 9.7, the following definitions shall apply:

**As-of-Right Siting:** As-of-Right Siting shall mean that development of a large-scale ground-mounted solar photovoltaic installation, consistent with the protections offered by G.L. c. 40A, § 3, may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to site plan review to determine conformance with the local Zoning Bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Site Plan Review Authority.

**Building Inspector:** The inspector of buildings, building commissioner, or local inspector charged with the enforcement of the Zoning Bylaws.

**Building Permit:** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing large-scale ground-mounted solar photovoltaic installations.

**Designated Location:** The location designated as the “Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District (SPOD)” in accordance with Massachusetts General Laws Chapter 40A, Section 5, where large-scale ground-mounted solar photovoltaic installations may be sited as-of-right. Said location is shown as Assessors Map 40, Parcel 44, pursuant to Massachusetts General Laws Chapter 40A, Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

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

**Site Plan Review:** Review by the Site Plan Review Authority pursuant to Section 10.5 of this Zoning By-law.

**Site Plan Review Authority:** For purposes of this Bylaw, Site Plan Review Authority refers to the Zoning Board of Appeals.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

**Zoning Enforcement Authority:** The person or board charged with enforcing the Zoning Bylaws.

**Light Manufacturing:** Light industry and/or light manufacturing includes the assembly of previously prepared or manufactured parts, machine shops or other metal working, printing and graphic arts establishments, or the manufacturing, compounding, processing or packaging of products such as candy, cosmetics, perfumes, pharmaceutical and biotechnical, toiletries, food products and building and construction products.

**Limited Industrial Recreational use:** 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 semiprofessional 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.

**Long-term care facility:** Any institution licensed by the Massachusetts Department of Public Health (105 CMR 150) whether for charity or non-profit providing four or more individuals with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facilities include convalescent or nursing homes, rest homes, infirmaries maintained in town and charitable homes for the aged. Long-term care facilities do not include hospitals, clinics, medical offices, or substance abuse detoxification or treatment centers.

**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.

**Lot area:** The horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

**Lot, corner:** A lot with two (2) or more adjacent sides abutting upon streets.

**Lot, depth of:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**Lot Frontage:** Frontage of a lot is the distance of the property line that directly abuts a public or private right-of-way. The line is measured continuously along a single street or streets for corner lots. The minimum frontage must be maintained from the front property line through the principal building parallel to the frontage.

**Lot line:** A line dividing one lot from another, or from a street or way.

**Lot Width Through the Principal Dwelling/Building:** The horizontal distance between the two side yard property lines, measured parallel to the lot frontage through any portion of the principal building or dwelling.

**Manufacturing:** The processing and manufacturing of materials, and the manufacturing of previously prepared materials, of finished products or parts. This includes processing, fabrication, assembly treatment, packaging incidental storage, sales and distribution of such products, including renewable and alternative energy companies, but excludes the

following uses: packaging of meats and fish products, heavy punch presses or drop hammers.

**Medical Marijuana Treatment Center:** A not-for-profit entity as defined by Massachusetts law only, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

**Medical office or group of such offices:** Office (or building) designed and used as an office by physicians, dentists, or psychotherapists for the diagnosis and treatment of human patients that does not include overnight care facilities, or licensing as a clinic.

**Medical or dental labs:** A laboratory where microbiological, chemical, hematological, biophysical, cytological, immuno-hematological, or pathological examinations are performed on materials derived from the human body to provide information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition (see Executive Office of Health and Human Services 101 CMR 320). This excludes scientific or research laboratories and those categorized as Level 4 by the National Institutes of Health.

**Mixed Use Overlay District:** The following definitions shall apply in the MUOD, Section 9.4.

**Applicant:** The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of an MUOD project, hereunder. The applicant must own or be the beneficial owner of all the land included in the proposed MUOD 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.

**Buffer:** An area within the MUOD adjacent to the boundaries, streams and ponds, which may not be developed except as provided herein.

**Development Schedule:** A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the MUOD site, separated into stages where applicable.



**Gross Square Feet of Nonresidential 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.

**Mixed Use:** A use which utilizes a minimum of sixty percent (60%) and a maximum of seventy-five percent (75%) of a building or buildings as residential use and a minimum of twenty-five percent (25%) and a maximum of forty percent (40%) as non-residential use. At least twelve percent (12%) of the residential use shall be for affordable housing as defined in G.L. c. 40B.

**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.

**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.

**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 Acres:** Land without a wet area and not subject to flooding.

**Wet Areas:** All land subject to the provisions of G.L. c. 131, s. 40 and 40A.

**Motel or hotel:** A building or buildings intended and designed for transient, overnight or extended stay lodging, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not offer extended stay lodging for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four (4) month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**Motor vehicle body repair:** An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

**Motor vehicle general repairs:** Premises for the servicing and repair of autos, but not to include fuel sales.

**Motor vehicle fuel 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. Includes the sale of packaged food and other convenience items

**Municipal facilities:** Facilities owned or operated by the Town of Canton.

**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.

**Non-accessory Signs:** Any billboard, sign, or other advertising device that does not come within the foregoing definition of an accessory sign.

**Nursing or convalescent home:** See definition for long-term care facility.

**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.

**Parkland Open Space or Recreational Uses:** Conservation areas for water, water supply, plants, and wildlife; Conservation areas for flood protection and dams necessary for achieving flood protection; Active or passive recreational use, cultural, civic and not for profit expositions; Land providing public access to recreational or conservation land or bodies of water; Day camps, picnic areas, public gardens and nature study areas; 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; Historic Structures.

**Pharmacy or drug store:** A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products may be sold as well.

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

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

**Recreational Marijuana Establishments:** All types of marijuana establishments as defined in M.G.L. c.94G, §1(j), including marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, but not including Registered Marijuana Dispensaries as defined in Section 7.7.3 of this Zoning By-law or Medical Marijuana Treatment Centers as defined in this Section 11 and as defined in Chapter 369 of the Acts of 2012 and 105 CMR 725.004.

**Rehabilitation Hospital:** An in-patient facility, as defined by the Federal Department of Health and Human Services, Centers for Medicare & Medicaid (CMS-1480-N), where at least 60% of the population served meets at least one of the following medical conditions: stroke, spinal cord injury, congenital deformity, amputation, major multiple trauma, fracture of femur (hip), brain injury, neurological disorders including MS, MD, and Parkinson's, burns, active rheumatoid arthritis, systematic vasculidities with joint inflammation, severe osteoarthritis, or knee or hip joint replacement.

**Restaurant:** Establishment whose primary use is for the sale of prepared food or beverage for consumption within the building.

**Retail:** A facility selling goods but not specifically listed in the Table of Use Regulations.

**Scientific or Research Laboratory:** Laboratory or research establishments including biotechnology companies (excluding laboratories categorized as Level 4 by the National Institutes of Health), and renewable and alternative energy companies.

**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.

**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.

**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.

**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.

**Substance abuse detoxification or treatment center:** A residential rehabilitation unit, treatment unit, detoxification facility, or other facility licensed by the Department under 105 CMR 164.000. This may include in-patient or out-patient facilities providing care coordination, case management, medical, pharmacological, psychological, psycho-educational, rehabilitative, or social services and therapies. A substance abuse facility that offers both inpatient and outpatient services would be defined as an in-patient facility, per Section 4.2.7. A substance abuse facility that offers only outpatient services would be treated as an outpatient facility, per Section 4.2.8. This does not include hospitals, long-term care facilities, clinics, or medical offices or groups of offices, such as drug or alcohol counselors where no medication is provided on-site.

**Telecommunication Tower:** A self-supporting monopole 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 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. The following definitions shall apply in Section 7.5.

**Antenna support structure:** Any building or structure other than a tower which can be used for location of telecommunications facilities.

**Applicant:** Any person that applies for a tower development permit.

**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.

**Engineer:** Any engineer licensed by the Commonwealth of Massachusetts.

**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.

**Person:** Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**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.

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

**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.

**Trade shop:** 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).

**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 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.

**Veterinary Facility or Clinic:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the use.

**Warehouse or distribution plant:** A building used primarily for the storage of goods and materials, for distribution, but not for sale 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. In the LI District, a warehouse or distribution plant is 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.)

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

**Wind Energy:** The following definitions shall apply in Section 7.6.

**Height:** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

**On-Site Wind Facility:** A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will consume more than fifty percent (50%) of the electricity generated by the project on-site.

**Rated Nameplate Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**Substantial Evidence:** Such evidence as a reasonable mind might accept as adequate to support a conclusion.

**Utility-Scale Wind Facility:** A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**Wind Facility:** All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wind Monitoring or Meteorological Tower:** A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

**Wind turbine:** A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**Yard:** A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

**Yard, front:** A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

**Yard, rear:** A yard extending the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot.

**Yard, side:** A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.