# CITY OF AMESBURY MASSACHUSETTS

# ZONING BYLAW AND MAP

ADOPTED APRIL 12, 1971
WITH REVISIONS THROUGH
November 18, 2014

As Attested City of Amesbury, City Clerk
Date February 19, 2015

Bonnijo Kitchin
Bonnijo Kitchin, City Clerk

# TABLE OF CONTENTS

2014

**SECTION**

I TITLE, AUTHORITY, AND PURPOSE

II DEFINITIONS (2012)

III ESTABLISHMENT OF ZONING DISTRICTS (2012)
Downtown Artist District map

IV INTERPRETATION AND APPLICATION

V USE REGULATIONS
Table of Use Regulations (2011)

VI DIMENSIONAL AND DENSITY REGULATIONS (2012)
Table of Dimensional and Density Regulations (2011)

VII SIGNS Sign Chart
Downtown Sign District (2011)

VIII OFF-STREET PARKING AND LOADING REGULATIONS (2011)
Parking Plans
Table of Off-Street Parking Regulations
Table of Off-Street Loading Regulations

IX NONCONFORMING USES, STRUCTURES, AND LOTS

X ADMINISTRATION AND ENFORCEMENT

XI SPECIAL CONDITIONS
A. Special Conditions
B.1 Removal of Sand, Gravel, Quarry or Earth Materials
B.2 Earth Filling
C. Site Plan Review (2012)
D. Cluster Residential-Special Permit
E. Planned Industrial Development- Special Permit
F. Home Occupation - Special Permit
G. Environmental Performance Standards
H.1 Planned Unit Development (PUD) - Special Permit (2011)
H.2 Lower Millyard Overlay District (LMOD) – Special Permit
Lower Millyard Overlay District map
I. Wireless Communication Facilities Bylaw
J. Multifamily - Special Permit (2011)
K.1 Residential Conversions
K.2 In-law Apartments - Special Permit
L. Planned Neighborhood Development (PND) Districts
M. Light Manufacturing - Special Permit (CBD & C)
N. Regional Commercial Zoning District – Development Standards
O. Common Access Driveway (CAD) - Special Permit (2001-143) 2002 (2011)
P. Neighborhood Conservation Districts
Brown Hill NCD Map (2002-37)
Q. Smart Growth Zoning District (2007-055)

Amesbury Gateway Village Smart Growth Overlay District
R. Priority Development Overlay District (PDOD) 2008-106
S. Solar Energy Structures and Facilities (2012-032)
T. Commercial Fashion Center Overlay District (CFCOD) (2014-071)

**XI.01.1** Medical Marijuana Overlay District

**XII** WETLANDS AND FLOODPLAIN PROTECTION DISTRICT
**XIII** HEALTH CARE OVERLAY (HCO) DISTRICT
**XIV** WATER RESOURCE PROTECTION DISTRICT
WRPD map
**XV** AMENDMENT, VALIDITY, AND EFFECTIVE DATE

# SECTION I

## TITLE, AUTHORITY, AND PURPOSE

The Amesbury Zoning Bylaw and Map hereinafter called "this Bylaw" is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto herein called "The Zoning Act."

The purposes of this Bylaw are: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and building including the conservation of natural resources and the prevention of blight and the pollution of the environment; to encourage the most appropriate use of land throughout the City, including consideration of the recommendations of the overall Master Plan; Preservation Plan, Open Space and Recreation Plan and the Hunt Road Redevelopment Plan and to preserve and increase the amenities of the City.

# SECTION II

## DEFINITIONS

For the purpose of this Bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words used or occupied include the words designed, arranged, intended, or offered, to be used or occupied; the words building, structure, lot, land or premises shall be construed as though followed by the words or any portion thereof; and the word shall is always mandatory and not merely a directory. Terms and words not defined herein but defined in the Subdivision Control Law shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U. S. Bureau of Census.

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

**Accessory Solar Photovoltaic (PV) System:** A solar PV system that is installed on site to generate, collect and distribute electricity with an installed maximum electrical power production 1) not to exceed 125% of the electrical energy consumption needs of the land uses on site for the most recent twelve (12) month period, 2) up to 10 kW, or 3) to the limits established by the Solar Renewable Energy Certificate (SREC) Program, which ever is higher. 2012-031

**Accessory Use or Building:** A subordinate use or building customarily incident to and on the same lot with the main use or building.

**Active Recreation Facility:** Those public or private recreation areas or facilities, including swimming pools, that are primarily related to outdoor or indoor team sports or games such as baseball, football, soccer, tennis, basketball, and field or court games of a similar character.

**Adult Day Care:** A facility providing day care services to adults with mobility and/or self-care disabilities.

**Agriculture:** The science or art of cultivating the soil, producing crops, and raising of livestock useful to man. All structures traditional and incidental to agricultural activity shall be construed as accessory uses.

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

**Art Use:** the production of art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented or related production. Such use may include the fine and applied arts including painting or other like picture, traditional and fine crafts, sculpture, writing, creating film, creating animation, the composition of music, choreography and the performing arts.

**Artisan Business:** An establishment for personal or consumer services; An establishment for the retail sale of merchandise, or for the sale of such merchandise other than at retail if incidental to the operation of a retail establishment, including processing and/or assembly of merchandise when clearly accessory to the sale of such merchandise on the premises; A production shop for custom work involving the manufacture of articles to be sold on the premises.

**Artist:** a person regularly engaged in and who derives a substantial portion of his/her annual income form art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented or related production.

**Artist Live/ Work Space:** the use of all or a portion of a building for both art use and the habitation of artists.

**Assisted Elderly Housing:** Private or private nonprofit elderly housing comprised of individual studio, one bedroom, and two bedroom dwelling units for residents over the age of sixty-five (65). On-site services and facilities such as meals, cleaning, laundry, recreation, fitness, transportation, and social activities are an integral part of the development. Medical services may be offered but no long term hospital or nursing home care is provided within the assisted elderly housing development.

**Authority:** The word authority as used in this Bylaw shall mean that Board of the City of Amesbury that is the Special Permit Granting Authority for the proposed use.

**Basement:** A portion of a building partly below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is 4.5 feet or more above the finished grade or one-half of the total height above finished grade, whichever is greater.

**Bed and Breakfast Facility:** A single-family residence, with one or more rooms for the use of one or more individuals not living as a single household unit and not having cooking facilities. The bed and breakfast facility shall be accessory to the principle use as a permanent, owner-occupied residence. The number of rooms for rent shall be determined by the Planning Board based on off-street parking availability, vehicular access and egress, and shall not exceed 25% of the gross living space in the principle structure.

**Board:** The Zoning Board of Appeals of the City of Amesbury, Massachusetts.

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

**Building Area:** The aggregate of the maximum horizontal cross-section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces expressed as a percentage of total lot area.

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

**Building, Certified:** Any manufactured building, building component, or mobile home which meets the provision of Article 19 of the Massachusetts State Building Code, and the rules and regulations pursuant thereto; and which has been labeled accordingly.

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

**Building, Manufactured:** Any building which is of closed construction and which is made or assembled in manufacturing facilities, on or off the building site, for the installation or assembly and installation on the building site. Manufactured building does not mean mobile home.

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

**Business/Professional Offices:** A building or part thereof, for the transaction of business or the provision of services, exclusive of the receipt, sale, storage or processing of merchandise, not including banks.

**Canopies:** Canopies shall be constructed of a metal framework, with an approved covering, attached to the building at the inner end and supported at the outer end by not more than two (2) stanchions with braces anchored in an approved manner and placed not less than two (2) feet in from the curb line. The horizontal portion of the framework shall not be less than eight (8) feet nor more than twelve (12) feet above the sidewalk and the clearance between the covering or valance and the sidewalk shall not be less than seven (7) feet. The width of canopies shall not exceed eight (8) feet.

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

**CFC Development Site:** A site meeting the dimensional requirements for the CFCOD contiguous properties containing; access roads, parking, drives, buildings, storm water management, wetlands, pedestrian corridors and appurtenant facilities to support a Commercial Fashion Center.

**Cluster Residential Development:** A residential development in which the buildings and accessory uses are clustered together into one or more groups separate from adjacent property and other groups within the development by intervening open land.

**Commercial Fashion Center:** A grouping of predominantly Fashion Centric Businesses planned and designed on a development site with a mix of retail structures containing individual and multi-tenant buildings, organized in a village theme that is designed in the form and manner common to a community architectural theme, as applicable to the CFCOD.

**Common Access Driveway:** A driveway satisfying the requirements of Section XI.N. of the bylaw, which provides access to not more than three (3) lots, and does not qualify as a street for determining frontage under Chapter 40A and 41 of the General Laws of Massachusetts.

**Community Facilities:** Premises owned and operated by a governmental or chartered nonprofit organization, but not including fraternal, sports, or similar membership organizations.

**Day Care Center:** Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under seven years of age, or under sixteen years of age if such children have special needs, for nonresidential custody and care

during part or all of the day separate from their parents. Day Care Centers shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday School conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefore.

**Data Warehousing:** Facilities shall include buildings used for the storage, primarily on electromagnetic, optical or other digital media, of records, data and databases, files, accounts, lists, design, photographs, electronic code, reference materials, entertainment programs, and other software and shall include storage of paper or similar hardcopy records incidental to digital media storage.

**Development:** For the purpose of the Federal Floodplain Districts the word development shall be taken to mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**District:** A zoning district as established by Section III of this Bylaw.

**Dockage:** Noncommercial facility for the tying up of one or more boats. Dockage to be distinguished from a marina.

**Downtown Artist District (DAD):** The purpose of this overlay district to encourage artists, to both live and work in the downtown area thereby promoting a venue for and encouraging further concentration of art, cultural and entertainment attractions in the downtown area. The use of a building or structure for Artist Live/ Work Space" for art use by an artist shall, in the Downtown Artist District, require a special permit from the Planning Board. Such use shall conform to the provisions listed in Section X.J. as well as Section XI.C.

**Dwelling:** A privately or publicly owned, permanent structure containing a dwelling unit or dwelling units. The terms one family, two family, or multifamily dwelling shall not include hotel, lodging house, hospital, membership club, trailer, or dormitory.

**Dwelling, Multifamily:** A building containing three or more dwelling units.

**Dwelling, Two Family:** A building containing two dwelling units. Only one such building shall be developed on any one lot.

**Elm St. Overlay District:** The Elm St. Overlay District contains all property and structures from I-495 to I-95 as shown on the Amesbury Zoning Bylaw map. It is measured three hundred (300) feet north from the centerline of Elm St. The purpose of the district is to integrate and preserve the historic vernacular along the Elm St. corridor to the downtown and surrounding neighborhoods.

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

**Family:** One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

**Fashion Centric Business:** A retail business focused on providing high quality shoes, sportswear, clothing, fine leather goods, and accessories predominantly comprised of national and international brands, as applied to uses within the CFCOD.

**Fast Food Establishment:** Premises used for the sale of food and drink packaged in a manner suitable for take-out consumption, whether or not consumed on the premises; unless such use is wholly incidental to another use defined in this Bylaw.

**Fixed and Permanent Awning:** The clearance from the side walk to the lowest part of any fixed or permanent awning shall be the same as required for retractable awnings. Fixed or permanent awnings installed above the first story shall not project more than four (4) feet. Fixed or permanent awnings shall be securely fastened to the building and shall not extend closer than twelve (12) inches from the curb line.

**Floodway:** The channel of a river or other watercourse and any adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 foot.

**Floor Area, Gross:** The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

**Floriculture:** The cultivation and management, usually on a commercial scale, of ornamental and flowering plants.

**Food Court:** A collection counter based food vendors accessed by a common internal area providing general seating not assigned to one food vendor and with the majority of vendors not providing table service, as applied to uses within the CFCOD.

**General Retail Sales and Services:** General commercial activities that provide goods and services to the general public for retail and not wholesale price.

**Health Care Facility:** A building or buildings providing inpatient and/or outpatient medical services for health maintenance; a clinic; a diagnostic or treatment facility with patient related medical laboratories.

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

**Home Occupation:** An accessory use which by custom has been carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use and which shall not occupy more than 40 percent of the net floor area or 400 square feet, whichever is less, of the dwelling unit so used. In connection with such use there is to be kept no stock in trade nor commodities sold on the premises. Such use shall be carried on by the occupant of the dwelling unit with no more than one nonresident employee, and shall not in any manner change the residential character of the building.

**Horticulture:** The cultivation of an orchard, garden, or nursery on a small or large scale. The science and art of growing fruits, vegetables, flowers or ornamental plants.

**Hospital:** A building providing 24-hour in-patient services for diagnosis, treatment, or other care of human ailments including a sanitarium, sanatorium, clinic, rest home, nursing home, and convalescent homes.

**Hotel or Motel:** A building containing rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied, for sleeping purposes for guests and where only dining rooms are provided within the building or in an accessory building or any business holding an innkeeper license under the Massachusetts General Laws.

**Housewares and Specialty Retail**: High quality housewares, specialty gifts, as well as home goods and décor, as applied to uses within the CFCOD.

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

**In-law Apartment:** A separate dwelling unit located within a single family dwelling that is subordinate in size to the principal unit, connected by an unlocked common door, and separated from it in a manner which maintains the appearance of the building as a single family dwelling. The size of the in-law apartment is not to exceed 1000 square feet or not more than 30% of the gross floor area of the principal unit, whichever is lesser. The in-law apartment may only be occupied by brothers, sisters, parents and grandparents, in-laws and or children of the residing owners of the principal dwelling unit. In no case shall the apartment be smaller than the minimum required by health and building codes.

**KWh (Kilowatt Hour):** One kilowatt hour is defined as the amount of energy consumed by a 1000-Watt appliance running continuously for 1 hour. It is a measurement of energy consumption. 2012-031

**Light Manufacturing:** Facilities including industrial services such as machine shops, plumbing, electrical, model-making or carpentry shops or similar services: Assembly for products such as electronic and telecommunications products, toys, software, cameras, medicines and dietary or food products, furniture and similar products; Printing Services such as job printing, books and other publications and similar services and products and other non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor and heat are effectively confined in a building or are disposed in a manner so as not to create a nuisance or hazard to safety or health.

**Lineal Frontage:** The length in feet an establishment abuts a street or public right-of-way at first floor or entrance level.

**Loading Space:** An off-street space used for loading or unloading not less than 14 feet in width, 45 feet in length, and 14 feet in height, and containing not less than 1,300 square feet including both access and maneuvering area.

**Lodging Unit:** One or more rooms for the use of one or more individuals not living as single housekeeping unit and not having cooking facilities. A lodging unit shall include rooms in boarding houses, tourist houses, or rooming houses.

**Lot, Area:** An area or parcel of land or any part thereof, not including water area or areas below seasonal mean high water (as defined by a study of all relevant federal, state, and local data), in common ownership, designated on a plan filed with the administrator of this Bylaw by its owner or owners as a separate lot and having boundaries identical with those recorded in the Essex County Registry of Deeds.

**Lot, Corner:** A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended lot lines, being not more than 135 degrees.

**Lot, Frontage:** The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

**Lot Line, Front:** The property line dividing a lot from a street (right-of-way). On a corner lot, the owner shall designate one street line as the front lot line.

**Lot Line, Rear:** The lot line opposite from the front lot line.

**Lot Line, Side:** Any lot line not a front or rear lot line.

**Lot, Nonconforming:** A lot lawfully existing at the effective date of this Bylaw or any subsequent amendment thereto which is not in accordance with all provisions of this Bylaw.

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

**Lot, Width Minimum:** In all districts, unless allowed otherwise (2009-060), the minimum lot width from the front property line to rear setback line will be equal to or greater than the frontage required for the zoning district. 2009-060

**Lowest Floor:** The lowest floor (Floodplain Districts) is the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**Marijuana Dispensary, Registered**: Registered Marijuana Dispensary, also known as RMD or Medical Marijuana Treatment Center, shall mean an establishment properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. 2014-003

**Main Entrance:** The entrance to an establishment which serves as the primary egress utilized to undertake business transactions.

**Marina:** A municipally or commercially operated landing and mooring place for yachts and other small boats and vessels, consisting of bulkheading and/or finger piers, and including facilities for the retail sale of the fuel, lubricants, water and ice, shore telephone, power service, and the disposal of refuge in a manner approved by the Board of Health and other relevant regulations. A marina is to be distinguished from dockage.

**Membership Club:** A social, sports or fraternal association or organization which is used exclusively by members and their guests which may contain bar facilities.

**Mixed Use:** For the purposes of this Bylaw mixed use shall apply to those developments that are a combination of commercial and residential uses in the same structure.

**Non-Profit or Private Schools:** Privately owned or religiously operated schools designed for general education and/or religious instruction. May be non-profit or profit-making operations. In all instances, where required by state or federal law all instructors shall be appropriately licensed.

**Non-Profit Recreation Facility:** An active or passive recreation facility or area that is owned and operated by a non-profit organization, open to the public and operated for the public benefit, such as, but not limited to religious organization or service club playing fields or athletic courts.

**Office, Retail or Shopping Center:** Two or more individual permitted uses, provided in the same building or attached buildings, and Gross Floor Area (GFA) totaling more than 10,000 sq. ft.

**Open Space:** The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways or off-street parking or loading spaces & expressed as a percentage of total lot area.

**Open Space Conservancy:** For the purposes of this Bylaw, this district includes all public and privately owned properties dedicated for use as a school, camping area, public park, playground or playfield, or conservation areas.

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

**Parking Space:** All off-street parking spaces must be at least nine (9) feet in width, eighteen (18) feet in length with a driveway twenty-four (24) feet in width unless an alternate layout is approved by the Planning Board.

**Photovoltaic (PV) Solar Panel:** A group of solar cells arranged into a panel that can be installed onto a flat surface. A PV solar panel may also be called a solar module. The panel captures sunlight and converts it into DC power. 2012-031

**Place of Amusement or Assembly:** A public or private activity such as video game arcades, bowling alleys, movie theaters, miniature golf facilities and similar activities.

**Private and/or Membership Club:** A private organization, with or without dues, that is organized for social, fraternal, or public service reasons.

**Private Non-Profit Recreation Facility:** A private recreation facility where use is provided for a fee, or open only to members of a certain company, group, or corporation.

**Private Indoor Recreation:** An establishment which provides facilities to members and/or guests for exercise, or for instruction of exercise or other health related programs, or otherwise sponsors activities engaged in for relaxation, amusement or sport, whether or not such activities are organized. (Such an establishment may provide amenities to its members and/or guests which are ancillary to the recreational use and purpose of the facility.)

**Private Outdoor Amusement/Recreation Facilities:** Recreational or amusement activities such as ski slopes and golf courses, that are privately owned and operated for profit; they may or may not be open to the general public, but not including rifle or pistol ranges.

**Prohibited Uses:** Offensive industrial operations, including the following: Abattoir, stockyard, incinerator, manufacture or storage of explosives or fireworks, and manufacture of cement or lime.

**Public/Private Active Recreation Facility**: An active recreational establishment such as playing fields or athletic courts, that are public or private owned and/or operated.

**Public Schools:** Publicly operated educational facilities meeting all local, state, and federal licensing and certification requirements.

**Retail Village**: A shopping area featuring a variety of shops surrounding an open-air concourse connecting courtyards and plazas reserved for pedestrian traffic, as applied to uses within the CFCOD.

**Recorded:** Recorded in the Essex District Registry of Deeds or registered in the Essex District Registry of Land court.

**Retractable Awnings:** There shall be a minimum clearance of seven (7) feet from the sidewalk to the lowest part of the framework or any fixed portion of any retractable awning, except that the bottom of the valance of canvas awnings may extend six (6) feet, nine (9) inches above the sidewalk. Retractable awnings shall be securely fastened to the building and shall not extend closer than twelve (12) inches from the curb line. They shall be equipped with a mechanism or device for raising and holding the awning in a retracted or closed position against the face of the building.

**Restaurant:** A building or portion thereof, containing tables and/or booths for at least two-thirds of its legal capacity, which is designed, intended and used for the indoor sale and consumption of food prepared on the premises, except that food may be consumed outdoors on landscaped terraces designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term restaurant shall not include fast food establishment.

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

**Sign, Area:** The surface of the smallest common geometric shape, which encompasses the entire sign. Structural members bearing no message which are an integral part of the design shall not be included in calculating the surface area.

a. Hanging Sign (double-face): The area of one side.
b. Three Dimensional Sign: Figure the projected area of both the front view and one side view of the sign, then use one half of these two areas.
c. Irregularly Shaped Signs: Use the area of the smallest place geometric figure that will wholly contain the sign.

**Sign, Business:** A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

**Sign, Identification:** A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

**Solar Array:** A group of solar panels collectively makes up a solar array.

**Solar Photovoltaic (PV) System:** An installation comprising of equipment, machinery and structures utilized to convert sunlight and ultra violet light directly into electricity and provide for the collection, storage and distribution of electrical power produced by such system. 2012-031

**Special Permit:** A permit to use a structure or lot for a purpose which may be permitted under this Bylaw only upon application to and approval of the Special Permit Granting Authority and in accordance with the provisions of Section X.J.

**Special Permit Granting Authority:** The Board of Appeals, the Mayor, the Municipal Council, or the Planning Board as designated in this Bylaw for the issuance of Special Permits.

**Story:** That part of a building comprised between a floor and the floor or roof next before. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story.

**Street:** A way which is over 24 feet in right-of-way width and is dedicated or devoted to public use by legal mapping or by any other lawful procedure.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, review stand, platform, bin, fence, sign, flagpole, swimming pool, or the like.

**Structure, Nonconforming:** A structure lawfully existing at the effective date of this Bylaw or any subsequent amendments thereto, which does not conform to one or more provisions of this Bylaw.

**Substantial Improvement:** For the purposes of the Federal Floodplain Districts, the words substantial improvement shall be taken to mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred.

**Supportive Housing:** Facilities comprising personal and other supportive services with a non-medical focus, limited to persons 55 years and older, including, but not limited to, assisted living, congregate care and independent living and should specifically exclude skilled nursing facilities, intermediate care facilities, nursing facilities, custodial care facilities and continuing care retirement communities, or such facilities which provide multiple levels of care within a single facility. 3/9/99

**Swimming Pool:** Any constructed pool, located above or below the ground, indoor or outdoor, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes, and having a depth of two (2) feet or more at any point, or having no less than two hundred fifty (250) square feet of surface area.

**Trailer:** Any vehicle which is immediately portable and is arranged, intended, designed, or used for sleeping, eating or temporary business use in conjunction with construction, or is a place in which people congregate including a house trailer or camper.

**Training Schools:** A privately owned school for instruction in a particular job skill such as typing schools, computer schools, drawing schools (all types), and similar types of activities.

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

**Use, Nonconforming:** A use lawfully existing at the time of adoption of this Bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this Bylaw.

**Use, Principal:** The main or primary purpose for which a structure or a lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this Bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this Bylaw shall be considered an accessory use.

**Variance:** Such departure from the terms of this Bylaw as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of Section X.I. of this Bylaw and Section 10 of the Zoning Act.

**Warehousing and Distribution**: Excluding "for-hire" and "self-storage" businesses, warehouse and distribution include a use primarily engaged in storage, wholesale, and distribution of manufactured products, supplies and equipment on-site. Includes land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The property or premises may not be used for permanent or long-term accessory storage for principle land uses at other locations. Unless expressly permitted by the Planning Board within the approval of the Special Permit and Site Plan Review, all Truck deliveries, including the use of tractor and or trailer units for arrivals or departures, are prohibited between the hours of 11:00 P.M. and 7:00 A.M.

**Wireless Communications Facilities (WCF):** A facility for the provision of personal wireless communications services as defined in the Federal Telecommunications Act of 1996, including the following: *Building Mounted*- any out-of-doors WCF mounted on, erected on, or supported in whole or in part by an existing building or structure (including without limitation, buildings, water towers, smoke stacks) occupied and/or used primarily for other purposes; *Freestanding, Exterior*- any out-of-doors WCF on which other wireless communications will be mounted. Including but not limited to, any freestanding monopole, or any other similar freestanding structure; and *Indoor*- Any indoor WCF mounted inside, erected inside or supported within an existing building or structure (including, without limitation, buildings, cupolas, church spires/steeples, inactive smoke stacks, and the like) occupied and/or used primarily for other purposes.

**Yard:** A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

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

**Yard, Rear:** A yard, except by an accessory structure or accessory use as herein permitted, extending from the full width of the lot between the rear line of the building wall the rear lot line.

**Yard, Side:** Yard extending for the full length of a building between the nearest building wall and the side lot line.

**Zoning Act:** The words "zoning act". as used in this Bylaw, shall mean Chapter 40A of the Massachusetts General Laws, as amended.

# SECTION III

## ESTABLISHMENT OF ZONING DISTRICTS

3.1.1: **Establishment of Districts** The City of Amesbury, Massachusetts, is hereby divided into zoning districts as set forth below:

| Full Name | Short Name |
|---|---|
| Residence 8 | R-8 |
| Residence 20 | R-20 |
| Residence 40 | R-40 |
| Residence 80 | R-80 |
| Rural Cluster | RC |
| Planned Unit Development | PUD |
| Central Business District | CBD |
| Commercial | C |
| Regional Commercial Zoning District | RCZD |
| Office Park | OP |
| Light Industrial | IL |
| Central Industrial | IC |
| Industrial | I |
| Open Space Conservancy | OSC |
| | |

3.1.2: **Overlay Districts**. Overlay districts shall be superimposed on other districts established by this by-law. Any land lying within such overlay districts shall also be subject to and have the benefit of the development and use regulations for the applicable underlying district(s) and shall, in addition, conform to the additional regulations of the one or more overlay districts in which the land lies. In the event of any conflict between the regulations of two or more overlay districts which apply to the same lot of land, or in the event of conflict between an underlying district(s) and an overlay district affecting it, the conflict shall be resolved by applying the most restrictive regulations. The following overlay districts are hereby established and described as set forth below:

| Full Name | Section of Bylaw | Short Name |
|---|---|---|
| Adult Entertainment Overlay District | Section V | AEOD |
| Amesbury Gateway Village Smart Growth Overlay District | Section XI.Q | AGVSMOD |
| Brown Hill Neighborhood Conservation District | Section XI.P | BHOD |
| Commercial Fashion Center Overlay District | Section XI.T | CFCOD |
| Downtown Artist Live/Work District | Section II | DAD |
| Elm Street Overlay District | Section II | ESOD |
| Health Care Overlay | Section XIII | HCO |
| Hunt Road Overlay District | Section II | HROD |
| Lower Millyard Overlay District | Section XI.H2 | LMOD |
| Priority Development Overlay District | Section XI.R | PDOD |
| Renewable Energy Development Overlay District | Section XI.S | REDD |
| Water Resources Protection District | Section XIV | WRPD |
| Wetlands and Floodplain | Section XII | W/F |
| Wireless Communication Facilities | Section XI | WCF |

3.1.3 The Federal Floodplain District is hereby established as an overlay district which is superimposed over all the other districts. The underlying permitted uses are allowed provided that they meet the additional requirements specified in Section XII as well as those of the Massachusetts State Building Code dealing with construction in flood plains.

3.2: **Zoning Map**: The location and boundaries of the Zoning Districts are hereby established as shown on a map titled Zoning Map of the City of Amesbury, Massachusetts, which accompanies and is hereby declared to be a part of this Bylaw. The authenticity of the Zoning Map shall be identified by the signature of the City Clerk and the imprinted seal of the City under the following words: This is to certify that this is the Zoning Map of the City of Amesbury, Massachusetts, referred to in the Zoning Bylaw of the City of Amesbury, Massachusetts, which was approved by the City Meeting on April 12, 1971.

3.2.1: **Changes to Map**: Any change in the location of boundaries of a Zoning District hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such map, and the map thus altered as declared to be part of the Bylaw thus amended. The Building Inspector shall be responsible for making changes to the Zoning Map. The Zoning Map shall be drawn at a scale of 1" = 1000' with ink on stable material, and the original shall be located in the office of the City Clerk. Copies of the Zoning Map are on display in the office of the Inspector of Buildings and in the Planning Board Office.

3.3: **Boundaries of Districts**: Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

1. Where a boundary is indicated as a street, railroad, watercourse, or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a City boundary, then to the limits of the town boundary.

2. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance there from as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

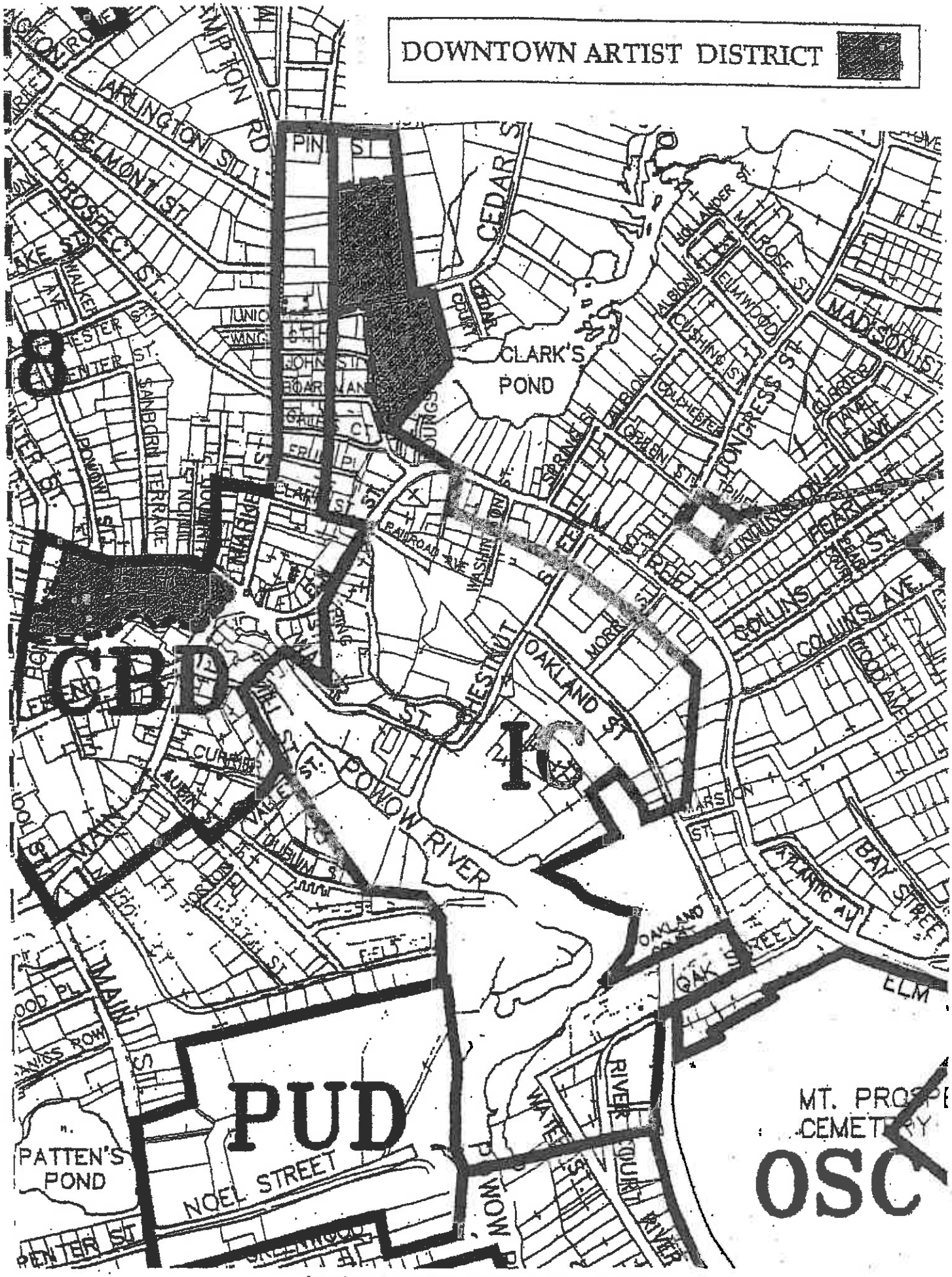
3. Where a dimensional boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.

4. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse, or other body of water, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent of the curve at the point of intersection.

5. The Federal Flood Plain District shall include all special flood hazard areas designated as Zone A or Zone Al through A30 on the National Flood Insurance Program Maps. The boundaries of the Federal Floodplain Districts shall be defined in the Flood Insurance Study, City of Amesbury, dated December 1979 and as shown on maps entitled Flood Boundary and Floodway (FLOODWAY), City of Amesbury, effective 1980, and Flood Insurance Rate Map (FIRM), City of Amesbury, effective June 18, 1980, which are on file with the City Clerk, Planning Board, and Inspector of Buildings. These maps and Flood Insurance Study are incorporated herein by reference.

6. The Downtown Artist District shall include the following properties as listed and shown on the attached Downtown Artist District Overlay Map: Map 40 - Parcel 209, 210, 236, 237 & 238; Map 52 - Parcel 188; Map 53 - Parcel 273, 274, 276, 278 & 290.

DOWNTOWN ARTIST DISTRICT MAP




Amesbury Zoning Bylaw 2012 Downtown Artist District

# SECTION IV

## INTERPRETATION AND APPLICATION

A. **Interpretation**: The provisions of this Bylaw shall be interpreted to be minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the City of Amesbury, Massachusetts. The provisions of this Bylaw are not intended to repeal, or in any way, impair or interfere with any lawfully adopted Bylaws, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed in any Bylaw or other regulation that provision which imposes the greater restriction or the higher standards shall govern.

B. **Application**: Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this Bylaw shall apply to the erection, construction, reconstruction, relocation, alteration, or use of buildings, structures, or land. This Bylaw 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 public hearing on this Bylaw required by Section 5 of the Zoning Act, but shall apply to any change or substantial extensions of such use, to a building, or special permit issued after the first notice of said public hearing, to any reconstruction extension or structural change of such structure, and to any alteration of any structure begun after the first notice of said hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension, or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

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

See Section IX of this Bylaw for additional regulations and exemptions regarding nonconforming uses, structures, and lots.

# SECTION V

## USE REGULATIONS

A. **Applicability of Use Regulations**: Except as provided in the Zoning Act or in this Bylaw, no building, structure, water body, or lot shall be used except for the purposes permitted in the district as described in this Section. Any use not listed in the Table of Uses shall be construed to be prohibited, unless otherwise listed in SECTION XI: SPECIAL CONDITIONS.

B. **Permitted Uses**: In Section V.D Table of Use Regulations the uses that are permitted by right in the district are designated by the letter (P). Those uses that may be permitted by special permit from the Planning Board are designated by (S1). Those uses that may be permitted by special permit from the Board of Appeals are designated by (S2). All special permits shall be processed in accordance with Section X.J. Uses designated by the symbol (-) shall not be permitted in the district.

C. **Uses Subject to Other Regulations**: Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other applicable provisions of this Bylaw.

D. **Table of Use Regulations**: See Table on accompanying pages which is declared to be part of this Bylaw

1. **Adult Entertainment Overlay District Bylaw**

1. **Authority** This BYLAW is enacted pursuant to M.G.L., Chapter 40A and pursuant to the City's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling City interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

2. **Purpose** It is the purpose of this Adult Entertainment by-law to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the City, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the City. All of said secondary impacts are adverse to the health, safety and general welfare of the City of Amesbury and its inhabitants.

The provisions of this by-law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials unless such matter is prohibited by state or federal law. Similarly, it is not the purpose or intent of this by-law to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitutions of the United States or of the Commonwealth of Massachusetts, nor to 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 by-law to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

3. **Definitions:** ADULT ENTERTAINMENT USES: Shall include the following uses:

(1) Adult Bookstores, as defined by G.L., C.40A, S9A;

(2) Adult Motion Picture Theaters, as defined by G.L, C.40A, S9A;
(3) Adult Paraphernalia Store, as defined by G.L., C.40A, S9A;
(4) Adult Video Store, as defined by G.L., C.40A, S9A;
(5) Establishment Which Displays Live Nudity For Its Patrons, as defined by G.L.,C.40A, S9A;

4. **Required Setbacks for Adult Entertainment Uses**

Adult entertainment uses shall be prohibited in all zoning districts except as otherwise permitted in this Bylaw and may be permitted only in the Adult Entertainment Overlay District, as shown on the Amesbury Zoning Map.

Adult entertainment uses shall not be located within:

(a) 500 feet from the nearest residential zoning district; or,
(b) 500 feet from the nearest church, health care facility, school, park, playground, play field, youth center, governmental building, hotel, motel, licensed day care facility, licensed family day care provider; or,
(c) 1000 feet from the nearest adult entertainment use as defined herein; or,
(d) 500 feet from the nearest establishment licensed under M.G.L., Chapter 138, §12; or,
(e) 50 feet from the street frontage.

The distance specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

5. **Adult Entertainment Uses by Special Permit; Criteria & Conditions**

Any proposed adult entertainment use must be permitted by special permit. The Planning Board shall hold a hearing on an application for an adult entertainment special permit within forty-five (45) days of such application. Notice of such hearing shall be published, posted and mailed in conformance with the procedures set forth in Section X.J.3 of this Bylaw.

The Planning Board shall act within thirty (30) days following the close of the public hearing. Failure to take final action upon an application for an adult entertainment special permit within said thirty (30) days shall be deemed to be a grant of the permit applied for. The time limitations for hearings and decisions on applications for adult entertainment site plans and/or special permits may be extended upon written agreement or request by the applicant. Except as herein provided to the contrary, the Planning Board's decision shall be posted and files as provided in X.J.9 of this Bylaw, and shall contain the information described in the third paragraph of Section X.J.8.

The following are the criteria to be considered in reviewing applications for such special permits. The findings required for other special permits under Section X.J.5 shall not apply to special permit applications under this section.

1. The application for a special permit for an adult use shall provide the name and address of the legal owner of the establishment, the legal owner of the property, and the manager of the proposed establishment.

2. No adult use special permit shall be issued to any person, or in the event of a corporation, LLC or other incorporated entity, its officers, directors or members, convicted of violating the provisions of M.G.L., Chapter 119, S63 or M.G.L., Chapter 272, S28.

3. The proposed use complies with the setback requirements set forth above in Section V.D.1.4.

4. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

5. No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L., C.272, S31.

6. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

7. The proposed adult entertainment use shall comply with the off-street parking requirements set forth in this by-law.

8. No adult entertainment use shall have any flashing lights visible from outside the establishment.

9. No adult entertainment use shall have a freestanding accessory sign.

10. No adult entertainment use shall be established prior to submission and approval of a site plan by the Planning Board. The applicant may submit such site plan concurrently with its application for the special permit. In such case, the Planning Board shall review and act upon the request for site plan approval within the time set forth above for public hearing(s) and decision(s) on applications for adult entertainment special permits.

In addition to the requirements of Section XI.C., the site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses.

The site plan shall show the distances between the proposed adult entertainment use and the boundary of the nearest residential zoning district and the property line of each of the nearest uses set forth in Section V.D.1.4 above.

6. **Conditions:** The special permit granting authority may impose reasonable conditions, safeguards and limitations on time or use of any special permit granted and shall require that any such special permit granted shall be personal to the applicant, shall not run with land and shall expire upon expiration of the applicant's lease or upon sale or transfer of the subject property.

7. **Expiration:** A special permit to conduct an adult entertainment use shall expire after a period of three calendar years from its date of issuance and shall be automatically renewable for successive three-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original special permit was granted.

8. **Severability:** The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect. Further, in the event that the requirement that adult entertainment uses first obtain a special permit, or the procedures set forth above therefore, is determined to be invalid the criteria set forth in Section V.D.1.5 shall remain in full force and effect and shall be administered and enforced by the Building Inspector and Zoning Enforcement Officer.

## E. AFFORDABLE HOUSING REGULATIONS (9/13/05 – 2005-63)

**1. Purpose:** The purpose of this Bylaw is to promote the general public welfare, including but not limited to ensuring an economically integrated and diverse community, by maintaining and increasing the supply of affordable housing in the City of Amesbury. This purpose includes:

a) Ensuring that affordable housing created remains affordable over the long term, with the majority of such housing remaining affordable in perpetuity, except as may be otherwise required under state or federal programs;

b) Maintaining a full mix of housing types and unrestricted geographic distribution of affordable housing opportunities throughout Amesbury;

c) To the extent allowed by law, ensuring that preference for new affordable housing is given to eligible persons who live or work in Amesbury;

d) Ensuring that new residential development generates affordable housing as defined in Section II of the Amesbury Zoning Bylaw.

**2. Definitions:**

1) ***Accessible Housing:*** As applied to the design, construction, or alteration of a dwelling unit, accessible housing is a housing unit that can be approached, entered, and used by individuals with mobility impairments;

2) ***Affordable Housing Unit:*** A dwelling unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements of the Local Initiative Program or other requirements for inclusion on the Chapter 40B Subsidized Housing Inventory;

3) ***Affordable Housing Restriction:*** A covenant agreement, deed restriction, or other legal instrument, acceptable in form and substance to the City of Amesbury, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of G.L. c. 184, Section 32, and be approved by the Department of Housing and Community Development.

4) ***Dwelling Unit:*** A single-unit structure or unit within a multiple-unit structure used and designed for independent living by one household or a unit within an assisted living facility or congregate living facility, but not including a skilled nursing facility unit;

5) ***Local Initiative Program:*** A program administered by the Massachusetts Department of housing and Community Development (DHCD) pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing;

6) ***Low- or Moderate-Income Household:*** A household or family with income at or below 80% or area median income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the City of Amesbury as determined annually by the United States Department of Housing and Urban Development (HUD) or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development;

7) ***Maximum Affordable Purchase Price or Rent:*** A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Local Initiative Program or other programs qualifying swelling units for inclusion on the Subsidized Housing Inventory;

8) ***Qualified Purchaser:*** A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence;

9) ***Qualified Renter:*** A low- or moderate- income household that rents and occupies an affordable housing unit as its principal residence;

10) ***Subsidized Housing Inventory:*** The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

**3. Applicability**

1. a) All multi-family residential developments requiring a Special Permit or Site Plan approvals from the Planning Board and mixed use developments that include a residential component are subject to the provisions of this Bylaw and shall be required to set aside a minimum of fifteen percent (15%) of the total number of dwelling units provided as affordable housing units. If other provision(s) of the Amesbury zoning bylaw require a different percentage of affordable housing units, the highest of the different percentages shall apply; b) Modifications to site plans for residential development approved by the Planning Board resulting in more than four (4) additional new dwelling units shall provide fifteen percent (15%) of the additional new swelling units in the development as affordable housing;

2. **Fractions**: If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if one-half (1/2) or greater, shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit less than one-half, the fraction shall be rounded down to the next whole number.

**4. General Provisions**

1) The Planning Board shall be charged with administering this Bylaw and shall promulgate rules and regulations to implement its provisions, including but not limited to submission requirements and procedures, methods of setting the maximum affordable sale price or rent, minimum requirements for a marketing plan, and documentation required to qualify the affordable housing units for listing on the Chapter 40B Subsidized Housing Inventory;

2) The Planning Board, in its discretion, may require the provision of an accessible housing unit(s), up to 5% of the total number of units and may designate when the unit(s) shall be provided during the construction process;

3) The selection of qualified purchasers or qualified renters shall be carried out under a marketing plan approved by the Planning Board;

4) The Planning Board may establish an administration fee schedule and may revise it from time to time for the monitoring of affordable units created under this Bylaw. The developer shall submit the required fee prior to issuance of any approval required to commence construction;

5) Developers may sell affordable units to the City of Amesbury, the Amesbury Housing Authority, or to any non-profit housing development organization identified by the Planning Board as serving the City of Amesbury, in order that such entity may carry out the steps needed to market the affordable housing units and manage the choice of buyers;

6) Relationship to the affordable housing inventory: It is intended that the affordable housing units serving low-income households that result from this bylaw be considered as Local Initiative Units in compliance with the requirements of the Commonwealth of

Massachusetts Department of Housing and Community Development, as required for the ten-percent (10%) statutory requirements under MGL C. 40B;

7) Relationship to public funding programs: Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those requited by this Section. In case of conflicting price limitations, the lower price requirement shall prevail;

**5. Affordability Requirements**

1) Affordability Restriction: An affordable housing unit created in accordance with this Bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the City and the Local Initiative Program or other programs qualifying dwelling units for inclusion on the Subsidized Housing Inventory, and shall be in force for perpetuity;

2) Maximum rental price: Rents for the affordable units, excluding utilities (heat, water, electricity), shall not exceed 30% of the targeted annual gross household income, as determined by the Commonwealth of Massachusetts Department of Housing and Community Development. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the City of Amesbury;

3) Maximum sales price: Housing costs, including monthly housing payments, principal and interest payments, real estate taxes, and insurance, shall not exceed 30% of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Office of Community and Economic Development. In o event shall the sale price of an affordable housing unit exceed the sale price of a unit that would be eligible for listing on the Subsidized Housing Inventory as a Local Initiative Unit and each such unit shall be subject to an affordable housing restriction;

4) Resale prices: Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by the federal Department of Housing and Urban Development and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the City of Amesbury and the developer or owner, this percentage may be increased of decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller;

5) Marketing plan: The affordable units must be rented or sold using marketing and selection guidelines approved by the City of Amesbury through the office of Community and Economic Development, and in accordance with state guidelines. The duration and design of the marketing plan shall reasonably inform all those seeking affordable housing, both within and outside the City, of the availability of such units. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Office of Community and Economic Development, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program or other programs qualifying dwelling units for inclusion on the Subsidized Housing Inventory;

6) Sale, lease or rental of units to low-income households: Units set aside for sale, lease or rental to low-income households shall be restricted for occupancy by qualified households that meet the definition of "low" income set forth in this bylaw;

7) Preference for City residents and persons employed within the City: Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered to, in order of preference:
   i) To employees of the City of Amesbury for at least five (5) years;
   ii) Current residents of the City of Amesbury who have resided in the City for a minimum of five (5) years and/or persons who, although not currently residents of the City, have previously resided in the City of Amesbury for minimum of five(5) years in the last fifteen (15) years; and
   iii) To employees of local businesses or businesses with majority of their operations and facilities located in Amesbury;
8) The applicant shall have recorded a use restriction or regulatory agreement at the Registry of Deeds. Model use restrictions for low- and moderate-income units and below-market units shall be supplied by the Planning Board and incorporated by reference here in the Affordable Housing Regulations;

**6. Development Standards**

1) Affordable dwelling units shall be dispersed throughout the building(s) in a development and shall be comparable to market housing units in terms of locations, quality and character, room size, bedroom distribution, and external appearance. In developments with multiple residential structures, affordable units shall also be, to the maximum extent possible , indistinguishable externally from market rate units in the same development;
2) Rights and privileges: The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development;

**7. Enforcement:**

1) Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule below. Fractions of units shall not be counted:

| MARKET-RATE UNIT % | AFFORDABLE HOUSING UNIT % |
|---|---|
| Up to 30% | None required |
| 30% plus 1 unit | At least 10% |
| Up to 50% | At least 30% |
| Up to 75% | At least 50% |
| 75% plus 1 unit | At least 70% |
| Up to 90% | 100% |

2) Certificates of Occupancy for any market-rate housing units shall be issued at a ratio of Certificates of Occupancy for required affordable housing units in accordance with the schedule above;
3) The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of G.L. c.184;
4) The Planning Board shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions of affordability, including the execution of the affordable housing restriction or regulatory agreement;
5) All documents necessary to ensure compliance with this Bylaw shall be subject to the review and approval of the Planning Board and review as to form by City Counsel;
6) All contractual agreements with the City and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any approval required to commence construction;

7) The applicant shall certify in a form acceptable to the Planning Board that low- or moderate-income rental units will be monitored annually in accordance with the rent limit and income eligibility requirements of the Local Initiative Program. All such monitoring shall be at the expense of the property owner as set forth in the use restriction and regulatory agreement on file at the Registry of Deeds.

**8. Severability**

1) If any portion of this Bylaw is declared to be invalid, the remainder shall continue to be in full force and effect.

# TABLE OF USE REGULATIONS

| USES | R-8 | R-20 | R-40 | R-80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential** | | | | | | | | | | | | | | | | | | | | |
| One family dwelling unit | P | P | P | P | P | - | - | - | - | - | - | - | - | - | - | - | - | - | | NO |
| Conversions of one family dwelling units to 2 or 3 family dwelling units (Section XI.K.1) | S2 | S2 | - | - | - | - | - | - | - | - | - | - | - | - | - | P[3] | - | - | | NO |
| Cluster Residential (Section XI.D) | S1 | S1 | S1 | S1 | P[4] | - | - | - | - | S1 | - | - | - | - | - | - | - | - | | NO[5] |
| Multifamily (Section XI.J) *2011-030 | - | - | - | - | - | S1 | S1* | - | - | - | - | S1 | - | - | - | - | - | - | | YES |
| In-law Apartments (Section XI.K.2) | S2 | S2 | S2 | S2 | S2 | S2 | - | - | - | - | - | - | - | - | - | - | - | - | | NO |
| Planned Unit Development by special permit (Section XI.H) | - | - | | - | - | S1 | - | - | - | - | - | S1 | - | - | - | - | - | - | | YES |
| Planned Unit Development (Section XI.I) | - | - | - | - | - | - | - | - | - | - | - | - | P[6] | - | - | - | - | - | | YES |
| Historic Uses (Section XI.J2) | S1 | S1 | S1 | S1 | S1 | S1 | | | | | | | | | | | | | | YES |
| **Community Facilities** | | | | | | | | | | | | | | | | | | | | |
| Churches | P | P | P | P | P | P | P | P | P | P | P | P | P | S1 | P | P | - | - | | YES |
| Supportive Housing | - | - | - | - | - | S1 | - | - | - | - | - | S1 | S1 | - | - | - | S1 | - | | YES |
| Public Schools | P | P | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES |
| Private, nonprofit schools | P | P | P | P | P | P | P | P | P | P | P | P | P | - | - | P | - | - | | YES |
| Public Parks/Conservation areas | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | - | - | | NO |
| Public/private active recreation facility | S1 | S1 | S1 | S1 | S1 | - | - | P | - | - | - | - | - | - | S1 | - | S1 | - | | YES |
| Private/nonprofit recreational facility | S1 | S1 | S1 | S1 | S1 | - | - | P | P | - | - | - | P | - | S1 | - | | - | | YES |
| City buildings (except garages) | S1 | P | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES |
| City Garages | - | - | - | - | - | - | - | - | - | P | P | - | - | - | - | P | - | - | | YES |
| Cemeteries (public or private) | P | P | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES |
| Historic associations/societies | S1 | S1 | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES |
| Hospitals | - | S1 | S1 | S1 | S1 | - | - | - | S1 | - | - | - | - | - | - | - | - | - | | YES |
| Nursing, rest or convalescent home | S1 | S1 | S1 | S1 | S1 | - | - | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Limited public utilities | P | P | P | P | P | P | P | P | P | P | P | P | P | S1 | P | P | - | - | | YES |

| USES | R-8 | R-20 | R-40 | R-80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Power plant, water or sewer treatment plant | - | - | - | S1 | S1 | - | - | - | - | - | - | S1 | - | - | S1 | - | - | - | | YES |
| Refuse facilities, all types | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Essential Services | P | P | P | P | P | P | P | P | P | P | P | P | P | P | S1 | P | P | - | | YES |
| Underground storage of heating/fuel oil for distribution purposes | - | - | - | - | - | - | - | - | - | - | S1 | S1 | S1 | - | - | - | - | - | | YES |
| **Agriculture** | | | | | | | | | | | | | | | | | | | | |
| Agriculture (not including the raising and/or keeping of swine or fur animals), cultivation of marijuana, horticulture and floriculture on a parcel of land that is more than 5 acres in area. (Note: for these uses land in common ownership that is divided by a public or private way or a waterway shall be construed as one parcel). | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | - | - | | NO |
| Agriculture (not including the raising and/or keeping of any livestock, cultivation of marijuana), horticulture and floriculture on a parcel of land that is less than 5 acres in area. | - | S1 | P | P | P | - | - | - | - | - | - | - | - | P | - | - | - | - | | YES |
| Raising and/or keeping of livestock, horses, and poultry, (not including the raising of swine or fur animals), on a parcel of land that is less than 5 acres in area. | - | - | - | S1 | S1 | - | - | - | - | - | S1 | - | - | S1 | S1 | - | - | - | | YES |
| Commercial stables, commercial kennels, or other commercial establishments in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures. | - | - | S1 | S1 | S1 | - | - | - | - | - | - | - | - | - | S1 | - | - | - | | YES |

# TABLE OF USE REGULATIONS

| USES | R8 | R20 | R40 | R80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Veterinary Hospital 2013-005 | - | - | S1 | S1 | S1 | - | P | - | P | - | P | - | - | - | - | - | - | - | | YES |
| Commercial Forestry | - | - | S1 | S1 | S1 | - | - | - | - | - | S1 | - | - | - | - | - | - | - | | YES |
| Year-round greenhouse or stand for wholesale and/or retail sale of agriculture, horticulture or floriculture products not including cultivation of marijuana. | - | S1 | S1 | S1 | S1 | S1 | P | - | S1 | - | P | P | - | - | S1 | S1 | - | - | | YES |
| **Business** | | | | | | | | | | | | | | | | | | | | |
| Adult Entertainment | - | - | - | - | - | - | - | - | - | - | S1 7 | - | - | - | - | - | - | - | | YES |
| Artisan Business | - | - | - | - | - | S1 | - | - | - | - | - | S1 | - | - | - | - | - | - | | YES |
| General retail sales & services not mentioned below | - | - | - | - | - | P | P | P[8] | S1 | - | - | S1 | P | - | - | P | - | - | | YES |
| Restaurant | - | - | - | - | - | P | P | P | S1 | - | S1 | S1 | P | - | - | P | - | - | | YES |
| Fast Food/drive-in establishment | - | - | - | - | - | - | P | S1 | - | - | - | - | - | - | - | - | - | - | | YES |
| Car/boat/truck sales, all classes (including parts) | - | - | - | - | - | - | P | - | - | - | P | - | - | - | - | - | - | - | | YES |
| Marina | - | S1 | S1 | S1 | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | | YES |
| Hotel/Motel 2009-060 | - | - | - | - | - | S1 | P | P | P | - | - | - | S1 | - | - | P | - | - | | YES |
| Bed & Breakfast | S1 | S1 | S1 | S1 | S1 | S1 | - | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Lodging House | - | - | - | - | - | S1 | - | - | S1 | - | - | - | - | - | - | S1 | - | - | | YES |
| Personal Services | - | - | - | - | | P | P | P | - | - | - | - | P | - | - | - | - | - | | YES |
| Funeral Services | - | - | - | S1 | S1 | S1 | S1 | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Professional/business offices | - | - | - | - | - | P | P | P | P | - | S1 | S1 | P | - | - | P | - | - | | YES |
| Office parks | - | - | - | - | - | - | - | - | P | - | - | - | - | - | - | P | - | - | | YES |
| Office, Retail or Shopping Center | - | - | - | - | - | S1 | - | S1 | - | - | - | - | - | - | - | - | - | - | | YES |
| Commercial Fashion Center | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | YES |
| Auto repairs, gasoline sales (not gas storage) | - | - | - | - | - | - | S1 | - | - | - | S1 | S1 | - | - | - | - | - | - | | YES |
| Construction trailer, during construction | P | P | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES |
| Private clubs | - | S1 | S1 | S1 | - | S1 | S1 | S1 | - | - | - | - | S1 | - | - | - | - | - | | YES |

| USES | R8 | R20 | R40 | R80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Private indoor recreation facility | - | S1 | S1 | S1 | - | S1 | S1 | P | S1 | S1 | S1 | S1 | P | - | P | S1 | - | - | | YES |
| Training Schools | - | - | S1 | S1 | - | S1 | S1 | - | S1 | - | P | P | - | - | - | S1 | - | - | | YES |
| Miscellaneous business repairs | - | - | - | - | - | P | P | - | - | - | P | P | - | - | - | - | - | - | | YES |
| Junkyards | - | - | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | - | - | | YES |
| Private Day Care Center | P | P | P | P | P | P | P | S1 | P | P | P | P | P | - | P | P | - | - | | YES |
| Theaters | - | - | - | - | - | P | P | S1 | S1 | - | - | S1 | S1 | - | - | S1 | - | - | | YES |
| Private outdoor amusement recreation facilities | - | - | - | - | - | P | P | - | - | S1 | P | - | - | - | P | - | S1 | - | | YES |
| Communication Tower | - | - | - | - | - | S1 | - | - | S1 | - | - | S1 | - | - | - | - | - | - | | YES |
| Commercial parking lot or structure (Section VIII) | - | - | - | - | - | S1 | - | P | S1 | P | P | S1 | - | - | - | S1 | - | - | | YES |
| **Industrial** | | | | | | | | | | | | | | | | | | | | |
| Artisan Business | - | - | - | - | - | S1 | - | - | - | - | - | S1 | - | - | - | - | - | - | | YES |
| Artist live/work space | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | S1 | | YES |
| Commercial earth removal | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | NO |
| Earth Removal associated with building construction (Section XI-B) | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | - | S1 | S1 | - | - | | YES |
| Construction yards | - | - | - | - | - | - | S1 | - | - | - | P | - | - | - | - | - | - | - | | YES |
| Light Manufacturing | - | - | - | - | - | S1 | - | - | P | P | P | P | - | - | - | - | - | - | | YES |
| Manufacturing | - | - | - | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | | YES |
| Laundry/cleaning plant | - | - | - | - | - | S1 | S1 | - | - | S1 | P | P | - | - | - | - | - | - | | YES |
| Bakery with on-premise sales (not a retail bakery) | - | - | - | - | - | P | P | - | S1 | S1 | P | P | - | - | - | S1 | - | - | | YES |
| Transportation terminal (passengers) | - | - | - | - | - | S1 | P | - | - | - | P | S1 | - | - | - | - | - | - | | YES |
| Warehousing and Distribution | - | - | - | - | - | - | S1 | - | S1 | - | S1 | S1 | - | - | - | - | - | - | | YES |
| Open Storage | - | - | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | - | - | | YES |
| Research office/labs | - | - | - | - | - | S1 | S1 | - | P | - | P | P | - | - | - | P | - | - | | YES |
| Data Warehousing | - | - | - | - | - | S1 | - | - | S1 | - | S1 | S1 | - | - | - | S1 | - | - | | YES |
| Planned Industrial Development | - | - | - | - | - | - | - | - | S1 | S1 | S1 | S1 | - | - | - | - | - | - | | YES |

| USES | R8 | R20 | R40 | R80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/E | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| List of Prohibited Uses | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Registered Marijuana Dispensary, including retail sales | - | - | - | - | - | - | - | - | - | S1[11] | S1[11] | - | - | - | - | - | - | - | | YES |
| Registered Marijuana Dispensary – cultivation and processing only | - | - | - | - | - | - | - | - | - | P[11] | P[11] | - | - | - | - | - | - | - | | YES |
| **Accessory Uses** | | | | | | | | | | | | | | | | | | | | |
| Home Occupation (Section XI-F) | S2 | S2 | S2 | S2 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | NO |
| Private day nursery or kindergarten, provided it shall not occupy more than 40% of the GFA of the structure and there shall be minimum of 100 SF of outside play area per enrolled child | P | P | P | P | P | P | P | S1 | P | P | P | P | P | - | P | P | - | - | | YES |
| Accessory professional office of a licensed medical or dental practitioner, podiatrist, chiropractor, lawyer, professional engineer, or professional architect in an existing dwelling. | S2 | S2 | S2 | S2 | P | P | P | P | P | P | P | P | P | - | - | P | - | - | | YES |
| Accessory repair/storage facility in retail/service establishment provided it not occupy more than 25% gross floor area | - | - | - | - | - | - | P | - | - | - | - | - | - | - | - | - | - | - | | YES |
| | | | | | | | | | | | | | | | | | | | | |

| USES | R8 | R20 | R40 | R80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Accessory outside storage clearly necessary to the operation & conduct of a permitted principal wholesale, transportation, industrial, and/or commercial use provided: it shall be screened from outside view by an enclosed solid fence or wall and gate at least 10' in height or a solid wall of evergreens, when planted not more than 18" apart and at least 3' in height and a solid gate at least 10' in height not more than 20' in width. | - | - | - | - | - | - | S2 | - | - | S2 | S2 | S2 | - | - | - | - | - | - | | YES |
| Accessory manufacturing use provided: it shall not occupy more than 25% of the gross floor area of building, except in the light industrial district where it shall be not more than 30% of the gross floor area of the building; and it shall not be located within 100' of any R district or within 50' of any street lot line. | - | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | | YES |
| Newsstand, barber shop, dining room or cafeteria and similar accessory ser vices primarily for occupants or users thereof within a hotel, office, or industrial building, hospital containing more | - | - | - | - | - | P | P | P | P | - | - | P | P | - | - | P | - | - | | YES |

| than 50 sleeping rooms or transportation terminal facility. | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **USES** | **R8** | **R20** | **R40** | **R80** | **RC[1]** | **CBD** | **C** | **RCZD** | **OP** | **IL** | **I** | **IC** | **PUD** | **W/F** | **OSC** | **ESOD** | **HROD[2]** | **DAD** | **CFCOD** | **Site Plan Review required** |
| Up to 3 lodging units in an existing dwelling | S2 | S2 | S2 | S2 | S2 | S2 | - | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Accessory signs subject to the provisions of Section VII | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | - | - | | YES |
| Accessory off-street parking and loading spaces as required in Section VIII | P | P | P | P | P | P | P | P | P | P | P | P | P | - | P | P | - | - | | YES[10] |
| Accessory gas storage and pumping facilities for use by the principal user and not as a separate business | - | - | - | - | - | S2 | S2 | - | - | S2 | S2 | S2 | - | - | - | - | - | - | | YES |
| Accessory activities which are necessary in connection with scientific research or scientific development or related production provided such use does not substantially derogate from the public good. | - | - | - | - | - | S2 | S2 | - | S2 | S2 | S2 | S2 | S2 | - | - | S2 | - | - | | YES |
| Accessory marina | - | S1 | S1 | S1 | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | | YES |
| Accessory satellite parabolic receivers[9] | S2 | S2 | S2 | S2 | S2 | S2 | S2 | - | S2 | S2 | S2 | S2 | S2 | - | - | S2 | - | - | | YES |
| Accessory retail sales & services, including, but not limited to, canteens cafeterias, or seasonal outlet sales, clearly associated to the operation & conduct of a | - | - | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | - | - | | YES |

| permitted principle use. | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| USES | R8 | R20 | R40 | R80 | RC[1] | CBD | C | RCZD | OP | IL | I | IC | PUD | W/F | OSC | ESOD | HROD[2] | DAD | CFCOD | Site Plan Review required |
| | | | | | | | | | | | | | | | | | | | | |
| Accessory retail sales & services, including, but not limited to, fast food restaurants and convenience stores, that are incidental or supplementary to the operation & conduct of a permitted principle use. | - | - | - | - | - | - | S1- | - | - | - | - | - | - | - | - | - | - | - | | YES |
| Accessory stable for not more than one horse | - | - | S1 | S1 | S1 | - | - | - | - | - | - | - | - | - | - | - | - | - | | NO |
| Dockage (Three or more boats of nonresidents of site) | - | S1 | S1 | S1 | - | - | - | - | - | - | - | - | S1 | - | - | - | - | - | | YES |

**Notes:**

(1) The purpose of the RC District shown on the City of Amesbury Zoning Map are the same as those for a cluster residential special permit in Section XI.D.1.

(2) In instances where access through an industrial district to and from a residential district is deemed suitable by the Planning Board, a Special Permit (S1) for residential access may be permitted according to the provisions outlined in Section X.J. as well as the Development and Performance Standards outlined in Section XI.c.8.a.

(3) One (1) residential unit per floor is allowed by right above the first floor and additional units may be permitted by Special Permit from the Planning Board.

(4) Permitted uses shall be those allowed in this table and Section XI.D.5.

(5) In the Rural Cluster District, Site Plan Review shall be required for those allowable uses in Section XI-D-5 and as required in this table.

(6) Permitted uses shall be those allowed in this table and Section XI.L.

(7) Special Permit shall only apply to areas shown on the Amesbury Zoning Map as Adult Entertainment Overlay Districts and meet all requirements of Section V.D.1.

(8) General Retail Sales and Service uses in the RCZD shall require a Special Permit (S1) from the Planning Board if they exceed 9,000 gross sq. ft. per lot. 2009-060

(9) Accessory Satellite Parabolic Receivers in excess of three (3) feet in diameter and within one hundred (100) feet of an abutting residential structure or fifty (50) feet of an abutting commercial or industrial structure, shall require a special permit from the Zoning Board of Appeals in all zones as set forth in the existing Bylaw.

(10) Off-street parking requirements under Section VIII may be satisfied by using parcels held in common ownership but separated by existing public or private ways and such parking on separate parcels shall be deemed parking accessory to the principal use, provided **a)** the principal use is residential; **b)** the parcels are directly across from one another and have frontage on said public or private way; and **c)** the affected parcels have been in common ownership prior to

the establishment of Zoning in the City of Amesbury. The off-street parking spaces shall be shown on a Site Plan as per provisions of Section X.C and require approval by the Planning Board. 2013-086

(11) Notwithstanding anything to the contrary set forth elsewhere in this Zoning Bylaw, a Registered Marijuana Dispensary shall be permitted only by special permit from the Planning Board and shall be allowed only within the Medical Marijuana Overlay District (MMOD) pursuant to the requirements of Section XI.01.1. Provided a RMD is a cultivation site only and is located in the MMOD, it shall be permitted by site plan approval. Hardship cultivation of Medical Marijuana shall be allowed in any zoning district provided the applicant submits a copy of the hardship cultivation registration granted by MDPH to the local law enforcement authority and renews such registration annually as per regulations promulgated by MDPH.

# SECTION VI

## DIMENSIONAL AND DENSITY REGULATIONS

A. Applicability of Dimensional and Density Regulations: The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum open space shall be specified in each Section and set forth in the Table of Dimensional and Density Regulations, and subject to the further provisions of this section.

B. Table of Dimensional and Density Regulations: See table below and on accompanying pages plus attached notes, which is declared to be part of this Bylaw. *(revised 10/21/07 - 2007-077)*

C. Reduction of Lot Areas: The lot, yard areas, and open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provision of this Bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this Bylaw, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

D. Separation of Lots: Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this Bylaw.

E. Accessory Buildings and Structures: (2007-089) In "R", "C", and "OP " Districts a detached accessory building or structure shall conform to the following provisions: it shall not occupy more than twenty five (25) percent of the required rear yard or sideyard (in case of corner lot); it shall be set back from the street line no less than eighteen (18) feet and set back a least sixteen (16) feet from the street line and at least two (2) feet behind the front plane of the principal structure; it shall not be less than five (5) feet from any other lot line or ten (10) feet from any off-site principal building or structure; In the "C" and "OP" Districts it shall not exceed twelve (12) feet in height and only in the "R" Districts, it shall not exceed twenty-four (24) (2011-030) feet by twenty-four (24) feet in dimension, nor exceed fifteen (15) feet in height as defined in Section II of the bylaw and shall not have dormers in its roof; for garages, each bay shall have a separate garage door. In the "R" Districts, no more than one accessory structure as per these provisions would be allowed on the subject parcel in addition to a shed not exceeding hundred and twenty (120) square feet in area provided all other dimensional regulations are satisfied. No blank walls along any public way would be allowed. Garages or other such accessory structures, whether attached or detached, that exceed the above dimensions shall conform to the front, side, and rear yard setback requirements applicable to the principal building or structure in the zoning district where located. In-ground and above-ground pools shall be located in the rear yard and are subject only to the five (5) foot lot line restrictions as herein stated.

Accessory solar PV systems 2012-031 shall be allowed in any zoning district, unless noted otherwise, subject to the following provisions:

1. The proposed system shall comply with the provisions of the table of dimensional and density regulations for the zoning district thereof;

2. Prior to making request for a building permit, the property owner or the system installer shall confirm with the Fire Department that adequate arrangements for public safety, emergency services and adequate access have been incorporated into the design and layout of the system;

3. The Solar Photovoltaic (PV) System shall be removed by the owner of such system if the Inspector of Buildings determines that it has become a nuisance or hazard, after due notice has been provided to said owner.

4. A Solar Photovoltaic (PV) System shall not be mounted on to any side or vertical plane of a building that is an integral part of the building structure.

5. Installation Types: Only fixed solar panel arrays shall be allowed. The solar arrays shall be arranged on-site subject to the following provisions:

    a. Roof-Mounted solar PV system - Flush-mounted on a sloped roof:
        i. No portion of the solar panels or support structures shall extend beyond the eaves of the roof; and
        ii. The top surface of the solar panels shall not project more than 12 inches above the surface of the sloped roof to which the solar array is attached, follow the contours of the sloped roof and shall be architecturally integrated with the building on which it is mounted.

    b. Roof-Mounted solar PV system - flat roof, including fixed tilted racks:
        i. not exceeding seven (7) feet in height above the finished surface of the flat roof.

    c. Free standing solar PV systems shall only be allowed in the residential districts. Free-standing solar PV system shall be permitted only as an accessory use to the principal use of the property (and not as an independent principal use) and shall be allowed only as follows:

        i. not within the front yard as defined by the area between the edge of right of way and front façade of the principal structure and the side property lines;
        ii. not closer than five (5) feet from the rear and side lines of a lot provided a year round vegetative screen that provides 90% visual screening or a permanent solid fence is installed and maintained along the property line; and
        iii. Such that the highest point of any portion of the solar energy system is not more than twelve (12) feet above the adjacent grade.

F. Other General Dimensional and Density Provisions: In addition to the regulations in Items A through E above, the following regulations shall apply:

1. Existing residential uses in a "C" or "I" District shall be subject to the regulations for the particular type dwelling as defined in the R-8 District, except that dwelling units in such districts located over commercial uses in multi-story buildings shall adhere to dimensional and density controls from commercial uses in "C" Districts as appropriate unless the Special Permit Granting Authority attaches additional requirements.

2. Except for cluster residential developments; planned unit developments; Historic Preservation – Special Permits; industrial developments; community facilities; commercial developments with shared driveways, drainage and parking facilities; and public utilities, only one principal structure shall be permitted on a lot. Solar panel arrays that collectively and in conjunction with other equipment are installed in a solar energy facility shall be considered one structure for the purposes of this Bylaw. Similarly, multiple solar panel arrays in an accessory solar PV system shall be considered components of the accessory structure. The minimum lot area required per each individual dwelling unit, building, and other unit of use shall be multiplied by the number of units to obtain the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract as a whole. (2011-030) 2012-031

3. A corner lot shall have minimum street yards with depths which shall be the same as the required front yard depths for the adjoining lots.

4. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

5. (2007-089) Projections into required yards or other required open spaces are not permitted except as follows:

a. Balconies or bay windows may project up to two (2) feet into a required yard provided the projection is limited in total length to one half of the building face.

b. Open terraces, decks, steps or stoops may project up to one half the required yard setbacks provided they are less than four (4) feet in height.

c. Enclosed porticos less than sixteen (16) square feet in area, unenclosed porches, steps or stoops over four (4) feet in height, window sills, chimneys, roof eaves, fire escapes, fire towers, storm enclosures, awnings, or similar architectural features may project up to four (4) feet into a required yard.

6. The provisions of this Bylaw governing the height of buildings and structures shall not apply to chimneys, elevator bulkheads, skylights, ventilators,

electronic equipment, elevator shafts, and other necessary appurtenances usually carried above roof, nor to domes, towers, stacks, or spires, if not used for human occupancy and which occupy not more than 20 percent of the ground floor area of the building; nor to ornamental towers, observation towers, licensed amateur radio station, and other like structures, which do not occupy more than 20 percent of the lot area; nor to churches or public, agricultural, or institutional buildings or buildings or private schools not conducted for profit that are primarily used for school purposes, provided the excepted appurtenances are not located within the flight paths of an airport as defined by F.A.A. regulations. Any Solar Photovoltaic (PV) system allowed as an appurtenant or accessory structure, either attached to roofs or installed as free-standing structures shall not be exempt from the provisions of this Bylaw governing the height of buildings or structures. 2012-031

7. The gross floor area in a multifamily dwelling shall not be less than 450 square feet for one bedroom dwelling units, 600 square feet for two bedroom units, and 768 square feet for three bedroom or larger units.

8. Where commercial districts (CBD, C or OP) abut a residential district, no building within those districts shall be located within 25 feet of the boundary line of the residential zoning district. In the instance where the industrial districts (IL, IC, I) abut a residential district, no building within the industrial districts shall be located within 50 feet of the boundary line of the residential district.

Further, unless waived by the Planning Board due to instances where there is no practical alternative, a year-round, vegetative landscape screen shall be required within the side- or rear-yard setbacks between all commercial or industrial and residential zoning districts boundaries. Such landscape screen shall visually screen at least 90% of the commercial or industrial development from the abutting residential structures to a height of six (6) feet measured directly along the abutting lot line(s) of the residential property(s). In instances where there is no practical alternative due to access of parking layouts, the Planning Board may reduce the width of this landscape requirement by requiring off-setting mitigation measures, such as decorative fencing, walls and/or enhanced landscaping provided such mitigation maintains the 90% visual screening requirement along the residential property line. The required landscape screen of off-setting mitigation shall be planted in accordance to the Landscape Plan required under §XI.C.8.c.2 of Site Plan Review. (2011-030)

9. Visibility at Intersections: On a corner lot in any district no sign, fence, wall, hedge, shrub or other structure more than three and one half (3 1/2) feet above the established street grades shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lines.

10.

a. In Planned Unit Development (PUD), Central Industrial Development (ICZD) and Central Business Districts (CBD) Districts shown on the Zoning Map, the provisions of Section VI, Table of Dimensional and Density Regulations, governing the height, number of stories, and minimum front, side and rear yards of existing buildings or structures shall not apply to the reconstruction, extension, alteration or enlargement of preexisting, nonconforming buildings or structures as to which the Planning Board has granted a special permit unit Section X.J or Section XI.L, provided, however, that the height of any such reconstruction, extension, alteration, or enlargement shall not exceed the existing height of the highest preexisting, nonconforming buildings or structures on the lot, and further that the minimum front, side and rear yards for any such reconstruction, extension, alteration or enlargement shall not be less than the preexisting, nonconforming front, side and rear yards of any preexisting, nonconforming buildings or structures on the lot, such existing highest height and preexisting, nonconforming front, side and rear yards to be determined by the Building Inspector and the Planning Board through Site Plan Review. Upon written application duly submitted to the Planning Board, the board in appropriate cases, subject to the applicable conditions set forth in Section X.J and elsewhere in this Bylaw and subject to appropriate conditions, safeguards and limitations, may grant a special permit to allow the requested relief from height, front, side and rear yard setback requirements.

b. A permit issued under this provision shall lapse within two (2) years, excluding the time required to pursue or wait the determination of an appeal from the permit, if a substantial use has not commenced sooner or if construction has not started. The Planning Board may grant a transferable two year renewable extension, after a public hearing, for good cause, and shall grant an extension if delay has been caused by the need to seek other permits or project financing.

c. Parking facilities, located on a lot in a PUD district shown on the Zoning Map, below the grade of any street adjoining such lot shall not be calculated as part of the maximum height or number of stories for buildings or structures other than for buildings or structures used exclusively for parking facilities.

11. In the Central Business District (CBD) and Central Industrial (IC) shown on the Zoning Map, the front, side a rear yard setbacks, maximum building area and open space requirements as per the provisions of Section VI, Table of Dimensional and Density Regulations for new and existing structures may be relaxed subject to the granting of a special permit to this effect from the Planning Board. Under this provision, the change, extension, or alteration of existing buildings or structures (including preexisting nonconforming buildings or structures) as well as construction of new buildings or structures may be allowed up to the front, side and rear lot lines. Upon written application duly given to the Planning board, the board in appropriate cases, subject to the applicable conditions set forth in Section X.J and elsewhere in this Bylaw and subject to appropriate conditions, safeguards and limitations, may grant a special permit.

The change, extension, or alteration of preexisting nonconforming buildings or structures shall also require a finding through Site Plan Review by the Planning Board that such changes, extension, or alteration shall not be more substantially detrimental to the neighborhood than the existing nonconforming building or structure.

12. (2007-089) In all zoning districts, all proposed new principle structure(s) are permitted to utilize the established frontyard setback relationship of adjacent structures to the street. The established frontyard setback shall be determined by averaging the frontyard setbacks of the two (2) adjacent principle structures on each side of the subject lot measured from the front building wall of the adjacent structures to the property line along the street. For the purposes of this provision, lots located along the same street shall be deemed to be adjacent even if separated by a street or public easement. For lots located at the end of existing or proposed streets, all new structures are permitted to conform to the established frontyard setback of the two (2) adjacent principle structures on the same side of the street. All detached and attached garages shall be setback at least sixteen (16) feet from the street line and at least two (2) feet behind the front plane of the principle structure. For purposes of this provision, adjacent vacant lots shall be deemed to contain a principal structure that satisfies the established front yard set back for existing conditions.
All expansions and or additions to pre-existing principle structure(s), including the demolition and rebuilding of pre-existing non-conforming structures, that propose reconstructing or extending the structure(s) up to the established frontyard setback of the street shall require a "finding" from the Board of Appeals under Section IX.B.1.

# TABLE OF DIMENSIONAL AND DENSITY REGULATIONS (2009-060)

| District | Minimum Lot Area (S. F.) | Minimum lot Frontage (ft.) | Minimum Yards Front | Side (ft.) | Rear | Maximum Height (ft.) | Maximum Stories (#) | Maximum Building Area (%) | Minimum Open Space (%) |
|---|---|---|---|---|---|---|---|---|---|
| R-8 | 8,000 | 80 | 25 | 15 | 30 | 35 | 2.5 | 30 | 50 |
| R-20 | 20,000 | 125 | 40 | 20 | 40 | 35 | 2.5 | 20 | 50 |
| R-40 | 40,000 | 140 | 40 | 25 | 50 | 35 | 2.5 | 15 | 50 |
| R-80 | 80,000 | 200 | 40 | 40 | 80 | 35 | 2.5 | 10 | 70 |
| CBD | 5,000[13] | 50[13] | 0 | 5[8] | 30[8] | 40 | 4.0 | 70 | 10 |
| C 2011-030 | 20,000 | 100 | 20[11] | 15 | 40 | 40 | 4.0 | 40 | 30[12] |
| RCZD[1] | 2 Acres | 150 | 20 | 15 | 20 | 52 | 4.0 | 40 | 30 |
| OP | 2.5 Acres | 200 | 30 | 25 | 40 | 40 | 4.0 | 40 | 30 |
| I | 40,000 | 125 | 25 | 20 | 40 | 40 | 4.0 | 50 | 40 |
| IL | 10 Acres | 125 | 25 | 40 | 40 | 35 | 3.0 | 50 | 40 |
| IC | 40,000 | 125 | 25 | 20 | 40 | 40 | 4.0 | 50 | 40 |
| OSC | 5 Acres | 400 | 100 | 50 | 100 | 30 | 2.5 | 10 | 80 |
| PUD | 5 Acres[2] | 300 | 20 | 35[3] | 35 | 35 | 3.0 | 35[4] | 30[5] |
| ESOD[6] | 40,000 | 150 | 20 | 20 | 40 | 35 | 2.5 | 40 | 30 |
| RC[7] | 10 Acres | 200 | 25 | 25 | 15 | 35 | 2.5 | 20 | 70 |
| CFCOD | 50 Acres | 200 | 30 | 25 | 40 | 40 | 4.0 | 40 | 30 |

Wetlands/Floodplain: see Bylaw Section XII

1. Where development abuts a residential zoning district line the setback shall be 50 feet, and except for the purposes of a public recreational access pathway, no impervious surface of any kind shall be permitted in the setback area. The setback shall be landscaped to visually screen the development from the view of abutting residential areas. The proposed screening shall also be subject to the Site Plan Review criteria of this Bylaw.
2. In the Planned Unit Development (PUD) Districts shown on the Zoning Map the minimum lot area required by Section VI, Table of Dimensional and Density Regulations may be satisfied by combining lots in such districts in common ownership on separate parcels, separated by existing public or private ways, up to but not exceeding the minimum lot area required in a PUD district shown on the Zoning Map, provided, however, that any such separate lot or portion of a lot used in satisfying the minimum lot area requirement is

within 300 feet of the property line of the largest lot used to calculate the minimum lot area and further provided that existing public and private ways need not constitute boundaries of a lot for purposes of calculating minimum lot area.
For a single-use, multi-family development that contains only two-family structures on a lot, at least a portion of is within 80 feet of an R-8 District, the lot area shall be a minimum of 12,000 square feet and shall have a minimum of 80 feet of frontage. The minimum front-yard setback shall be 15 feet, side-yard setback 10 feet, and rear-yard setback 25 feet. All other dimensional regulations listed in the Table of Dimensional and Density Regulations shall apply. (2007-077)

3. Where a PUD abuts a residential zone the side yard setback shall be 50 feet.
4. In Planned Unit Development (PUD) Districts where the building area of preexisting structures or buildings on a lot exceeds 35% of lot area, the allowable maximum building area shall be increased by 10% of the building area of such preexisting structures or buildings, up to a maximum of 40%.
5. The required minimum open space for the PUD District shall be subject to all the requirements set forth for usable open space, Section XI.H.16 of this Bylaw.
6. Measured from the centerline of Elm St., the Elm St. Overlay District exists to protect the integrity of the older historic structures that provide a distinct visual character and identity to this important gateway to Amesbury. See Section X.M., XI.C. and the Amesbury Design Guidelines for a description of design review and application requirements. All uses allowed in the Office Park District are permissible in the Overlay District, except Light Manufacturing shall not be allowed. General Retail Sales & Services and Restaurants (excluding fast food or drive-up restaurants) are permitted by right and one (1) residential unit per floor is allowed by right above the first floor and additional units may be permitted by Special Permit from the Planning Board. Further, the maximum building area shall be increased to 50% and minimum open space reduced to 25% if no direct access from Elm St. is provided to the lot.
7. One dwelling unit per 435,600 sq. ft (10 acres) is permitted in the RC district. For cluster residential development, as permitted by right in RC, the maximum overall density shall be one dwelling unit per 80,000 sq. ft. For cluster residential development, the minimum lot size shall be 10,000 sq. ft; and the minimum lot frontage shall be 100 feet. Further, cluster residential development shall meet the open space standards of this table, and the use of the resulting common open space shall conform with the common open space requirements of Section XI.D.8 & 9 of this Bylaw.
8. In the Central Business District, the minimum side and rear setback requirements may be reduced to zero upon the granting of a special permit by the Planning Board, pursuant to Section VI.F.11 of this Bylaw.
9. For Planned Unit Developments (PUD) in the CBD, ICZD and R-8 districts that are only new construction, one dwelling unit per 5000 square feet of the total parcel area shall be allowed. Provided 20% of all the dwelling units proposed meet the requirements of Chapter 40B, Section 20, the maximum allowable density determined by the Planning Board shall be increased by 35%. For calculating the density in new construction for PUD, the total area for the parcel shall only include 50% acreage of areas protected by federal, state or local bylaws, including but not limited to wetland resource areas, areas of critical environmental concern, outstanding resource waters, rare species habitat, flood hazard areas, and floodplains. The maximum number of stories and the height of new residential structures shall not exceed those allowed by the underlying zoning district.

*(voted by Municipal Council 4/12/05 – Bill # 2005-8)*

10 (2007-089) In all districts, except RCZD, the minimum lot width from the front property line to rear setback line will be equal to or greater than the frontage required for the zoning district. 2009-060

11. (2011-030) In the Commercial District, the front-yard setback shall be reduced to five (5) feet in instances where a development includes a mixed-use building(s) or integrates multiple principle structures using shared driveways, parking and drainage facilities.

12. (2011-030) In the Commercial District, the minimum open space shall be reduced to 15% in instances where a development includes: 1) enhanced public, on-site pedestrian use areas such as brick plazas, walkways, street furniture (i.e. period lighting, trash receptacles, benches) and seating areas, and 2) a mixed-use building(s) or multiple principle structures using shared driveways, parking and drainage facilities.

13. (2013-086) In the CBD, only for a parcel with an existing building, the required minimum lot area would be reduced to 2,000 sf and the minimum lot frontage would be reduced to 20 feet provided a Special Permit has been granted under VI.F.11.

# SECTION VII

## SIGNS

1. **Purpose:**

1. To encourage creative sign design that reflects the historic character of Amesbury's diverse neighborhoods and encourage sign design that respects the building or site upon which the sign is placed.
2. To protect and enhance the visual appearance of Amesbury.
3. To provide information including business names and addresses, services offered, directions and other information helpful to residents and visitors.
4. To maintain public and private property values.
5. To promote public safety and convenience.

The following sign bylaw is intended to enhance and extend Amesbury's image as a traditional New England town with valuable architectural, historic and scenic resources. Elements and motifs reflecting these resources should be incorporated into sign design.

Respect for and acknowledgment of Amesbury's architectural heritage should be considered when designing signs and corporate graphics. Signs should respect the architectural detailing of the buildings on which they are placed as well as the surrounding neighborhood.

2. **Application Procedures**: - Please see Section V of the Amesbury Design Guidelines for further information and guidance.

a. Sign Permit Applications: In order to take advantage of the special provisions of this subsection, the applicant shall submit a sign application to the Planning Board. The application shall include the following:

1. The type of proposed sign (wall, hanging, etc.) or awning.
2. Dimensions of the proposed sign, any designs or lettering.
3. Type of materials from which the proposed sign is to be constructed (i.e. pine, bronze, etc.).
4. Scale drawing appropriate to show all information required including information on dimensions, material, brackets, lighting, lettering, graphics, symbols and methods of mounting or affixing sign to the building.
5. Simple scale elevation drawings indicating proposed placement of the sign on the building which accurately indicates doors, windows, and any other pertinent dimensions. For existing buildings a photograph shall be submitted in addition to the building drawing.
6. A site plan drawn to scale showing the sign location.

b. Sign Permit and Fee Requirement: A sign application must be approved by the Planning Board and the fee paid as set by the City, and filed in accordance with local and state building codes before a sign may be erected or installed.

c. Alterations and Maintenance: All signs to be altered or relocated shall conform with existing regulations and a proper permit secured. All signs shall be kept in repair in accordance with Article 1403 of the State Building Code. Maintenance of an approved sign is not considered an alteration.

d. Removing and Reconstructing: All signs heretofore approved and erected shall be promptly repaired if damaged or deteriorated, so as to comply with Article 1404 of the State Building Code. Otherwise, all damaged or deteriorated signs shall be promptly removed by the owner.

e. Sign Illumination: If an applicant wishes to illuminate a proposed sign(s) this should be so indicated on the sign permit application form. In addition, details of proposed lighting must be included on the drawings submitted: i.e. location, type, intensity, etc. Sign illumination will be considered if the light(s) proposed is steady, stationary, shielded, and of appropriate location and intensity. A neon tube sign located on the interior and facing through the window may be allowed provided the total amount of sign area does not exceed 10% of the window through which the neon tube sign faces. In addition, such neon sign may not be a sign intended to advertise a specific product or brand.

f. Primary and Secondary Signs: Each establishment may have appropriate signage oriented to each street or public right of way on which the establishment abuts, or from which it has access. It is intended that the primary sign will be located at the establishment's main entrance. A secondary sign is permitted only if it is significantly smaller and appropriately located on the building, structure or site.

g. Number of Signs: Unless permitted by the Planning Board, no more than two (2) signs shall be allowed for any one business or establishment in all zoning districts. In the case of multi-tenant properties, the Board may allow up to two (2) sign for each business in a building as well as two (2) signs to identify the property.

h. Sign Area: Sign area shall mean the area of the smallest space including lettering, logo and decorative borders which could enclose all the display area of the sign without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one (1) side of flat, identical back-to-back signs need be included in calculating the "sign area".

i. Sign design and lettering: Sign letter size should be related to the reader's distance and speed of travel. Sign content shall normally occupy no more than (50%) of the sign background. Signs should be simple, neat and avoid distracting elements, so that contents can be quickly and easily read. Sign style, materials, colors and lettering should reflect the character of the building to which the sign relates, just as sign size should be proportionate to the building size.

j. Appeals: Any person aggrieved by reason of his inability to obtain a permit from the Planning Board under the provisions of this subsection of the Zoning Bylaw or by an order or decision of the Inspector of Buildings may take an appeal to

the Board of Appeals in accordance with Section X.H&I, Appeals, and Variances of the Zoning Bylaw.

k. Prohibited Signs: Animated signs, billboards, and roof signs are not permitted in any zoning district. Backlit plastic signs are not permitted in the Central Business District. Permanent signs shall not display brand names, symbols or slogans of nationally distributed products except in cases where the majority of the floor or lot area on the premises is devoted to manufacture, sale or other processing of that specific product.

l. Severability: The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

3. **Sign Types and Regulations**:

a. Animated Sign: Any sign or any part of a sign which mechanically moves, flashes, or uses traveling lights.

b. Awnings or Canopies: Signs on awnings or canopies will be considered part of the allowable sign area.

c. Banner Sign: Any sign constructed of fabric. Pennants and flags are considered banner signs. Banners may only be used as temporary signs. Temporary banners not requiring formal review are described in this section under "Temporary Signs."

d. Building / Property Identification Sign: A sign either wall mounted or freestanding, that contains the name of a building or the name of a project such as a shopping center or office park / building.

e. Directory Sign: Any sign which contains listings of one or more commercial establishments. Directory signs may be mounted on a door if wall space is unfeasible, and shall be designed and constructed with provisions to allow for changes of occupancy without reconstruction of the entire sign.

f. Door Sign: Any sign which is affixed to an exterior door. The door sign shall be in character with the architectural style of the door.

g. Freestanding Ground Sign: A sign supported by one or more upright columns or structures placed on the ground.

h. Projecting / Hanging Signs: Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade or marquee sign. The following regulations apply to hanging signs:

1. Projection: not more than 4'8", from a building or 2/3 the width of the sidewalk, whichever is less.
2. Clearance: not less than eight (8) feet of clearance between the bottom of the sign and grade level.

i. Plaque or Historic Marker: A permanent sign whose purpose is to indicate some significant fact about the building or its site shall not exceed two (2) square feet in a residential district or six (6) square feet in a commercial or industrial district. Its area will not be figured in the allowable sign area of the building.

j. Primary Sign: A primary sign is an establishment's major sign and should be located in proximity to the main entrance.

k. Secondary Sign: A secondary sign may be used to indicate the secondary or alternate entrance to a commercial establishment. A secondary sign should be proportionately smaller than a primary sign.

l. Temporary Signs: Any sign which is intended for a limited period of display. Poster-type signs, construction signs, and real estate signs are considered temporary signs provided they meet the criteria listed below. Temporary signs which meet the following criteria only require a sign permit issued directly from the Building Inspector.

1. Poster-type Signs: street level only; not to occupy more than 20% of window area; related to use conducted or goods available on premises;

2. Construction Signs: identifies parties involved in construction on premises only; no advertising; not more than one (1) year, or duration of work, whichever is less; not more than sixteen (16) square feet; removed promptly by contractor at completion of construction.

3. All banners are considered temporary signs and shall meet the following criteria:

a. not more than thirty (30) days; no larger than sixteen (16) square feet per business; may contain a message. Banner signs may be used by each business for no more than a total of 90 calendar days annually.

b. bunting as a banner - not more than twenty one (21) days.

c. A flag not larger than 18 inches by 36 inches may be used provided it is removed daily when business is closed and it shall not conflict with pedestrian traffic.

m. Wall Sign: Any sign painted on, incorporated in or affixed to a building wall is considered a wall sign. Wall signs are of two basic types:

1. Directly Applied Wall Sign: painted, incised, or three dimensional letters applied directly to a building surface.

2. Independent Wall Sign: painted, incised, or three dimensional letters affixed to a signboard or frame which is then attached to a building surface.

n. Window Sign: A sign which is permanently fixed to the surface of the glass of any part of any establishment.

o. Reader Board: A permanent sign structure with changeable text or characters whose purpose is to indicate general information about the building, site, business or general community information. The reader board portion shall not exceed two (2) square feet, may be double sided, and shall be setback at least twenty (20) feet from

the property line. Only one (1) reader board is permitted per property. Moving letters are not permitted.

p. Neon-Tube Sign: A sign which displays only the following: "vacancy, "no vacancy", "open", or "closed". Neon-tube signs shall not exceed 10% of the total window area of a building.

4. **Other Considerations**:

a. Legibility: General legibility is related to the overall relationship of the color, size, and shape of sign to its context and the general character of the neighborhood or zoning district. All are important and must be considered prior to final approval. Refer to the Amesbury Design Guidelines.
b. Materials: Natural materials such as wood, brass, bronze, or baked enamelized metal are appropriate and strongly encouraged. If wooden signs are used, they shall be constructed in accordance with Section 1407, of the State Building Code. Generally, in the central business district, sign foam is allowed only if constructed to simulate a wood sign appearance.

c. Illumination: A sign (including temporary interior window displays or banners) or its illumination shall not by reason of its location, shape, size, or color conflict with or be confused with or obstruct the view of any official traffic sign, traffic signal, or traffic marking. Flashing or animated signs of red, yellow, or green colored lights shall not be permitted.

5. **General Regulations**: Signs shall be permitted in accordance with the following regulations:

A. Signs Permitted in any residential "R" District:

1. One professional name plate for each medical or dental practitioner, lawyer, professional engineer, or other professional occupation in any existing dwelling provided: such sign shall not exceed two (2) square feet in surface area and be either hanging or directly applied to the building.

2. One sign identifying the occupant for each dwelling unit, provided: such sign shall not exceed one (1) square foot in surface area: if lighted, it shall be illuminated with white light by indirect method only.

3. One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility, or public utility use provided: the sign does not exceed twenty (20) square feet in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall be set back at least one-half of the required depth of the front yard.

4. One unlighted temporary sign relating to a new residential subdivision during the actual period of construction, provided it shall not exceed twenty (20) square feet in surface area; and it shall be set back at least ten (10) feet from any street lot line.

B. Signs permitted in any commercial (except the CBD) and industrial "C", "RCZD", "I", "OP", "CFCOD" or "PUD" District:

1. In addition to the signs permitted in Paragraph A above, the following sign types subject to the regulations listed below are allowed as follows:

1. A wall sign for each business in a building provided: it shall be attached and parallel to the main wall of the building, it shall not project horizontally more than fifteen (15) inches there from; the surface area of the sign shall not aggregate more than five (5) percent of the total area of the wall; and if lighted, it shall be illuminated internally by white light only, however, the use of reflected light is also strongly encouraged.

In the case of multi-tenant properties, larger signs may be allowed if the Planning Board determines that the particular sign will not be inconsistent with: the purposes of this bylaw; the district in which it is to be located; nor be hazardous to traffic and safety conditions therein. In this case, the Board may allow a sign to contain up to ten (10) percent of the total area of the wall.

(2011-030) In the case of multi-tenant developments with entrance driveways located on two separate streets, multiple wall signs, no larger in aggregate than 5% of the total ground floor wall area of each wall that faces a public way or shared parking area, may be permitted by the Planning Board.

2. A projecting sign provided it shall be not exceed twenty (20) square feet in total surface area and shall be attached to and projecting from the wall or face of the a building or structure.

In the case of multi-tenant properties, larger signs may be allowed if the Planning Board determines that the particular sign will not be inconsistent with: the purposes of this bylaw; the district in which it is to be located; nor be hazardous to traffic and safety conditions therein. In this case, the Board may allow a sign to contain up to thirty (30) square feet in total surface area.

3. A freestanding ground sign or directory sign is permitted for each property, including multi-use facilities, provided: it shall not exceed forty (40) square feet in total surface area, no portion of it shall be set back less than ten (10) feet from any street lot line, it shall not be erected so that any portion of it is over twenty (20) feet above the ground or sidewalk; and if lighted, it shall be illuminated internally by white light only, however, the use of reflected light is also strongly encouraged. The sign shall contain a continuous background color for the entire sign area and each business displayed thereupon, shall be permitted to utilize their corporate color for lettering and / or their corporate logo.

In the case of multi-tenant properties, larger signs may be allowed if the Planning Board determines that the particular sign, such as a building or property identification sign, will not be inconsistent with: the purposes of this bylaw; the district in which it is to be located; nor be hazardous to traffic and safety conditions therein. In this case, the Board may allow a sign to contain up to eighty (80) square feet in total surface area.

(2011-030) In the case of multi-tenant developments with entrance driveways located on two separate streets, up to two (2) low-level ground signs may be

permitted by the Planning Board in lieu of a freestanding ground sign that meets the dimensional and design standards listed in subsection 3. Low-level ground sign(s) shall; be less than ten (10) feet in sign area per side of the sign; be less than 54 inches in height; be set back at least two (2) feet from a lot line; be perpendicular to the street; contain mo more than a single business on the sign; and, if illuminated, be illuminated by external white light only.

4. In addition to the primary and secondary sign, a directory sign may be permitted for any one or more establishments that share a common driveway, such as a shopping center or business park. They are allowed with a maximum size not to exceed twenty (20) square feet. Directory signs shall be designed and constructed with provisions to allow for changes of occupancy without reconstruction of the entire sign.

5. The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle, or on foot, of any business, industry or residence.

C. Signs Permitted in the Central Business District:

Table A shows allowable sign types and sizes for businesses located in the downtown commercial area plotted on the attached map and bounded by Pine Street, Poplar Street, R Street, Elm Street, Mill Street, Valley Street, Aubin Street, Main Street, Sparhawk Street, School Street, Friend Street, Pond Street, High Street, and Market Street. For purposes of interpretation any boundary line which appears on the attached map as being a street shall include both sides of the street including in their entirety the lots fronting on said street. The boundaries of this district shall not be confused with the existing "CBD" Zoning District, which remains in effect for all other purposes.

Applicants should review Section V. Downtown Design Guidelines for a general understanding of the unique design character applicable to downtown Amesbury. In particular, signs shall be consistent with the architectural style of the building(s) including industrial era mill buildings, Victorian residences and historic structures in the downtown area.

Sign Regulations: In addition to the sign types and regulations shown in Table A, the following sign regulations also apply to the Central Business District at the discretion of the Planning Board:

1. Directory Sign: Any sign which contains listings of one or more commercial establishments. Maximum size shall not exceed six (6) square feet. The number of individual business signs shall be equally proportional in size to the number of tenants and shall not exceed seventy-two (72) square inches per tenant. Directory signs may be mounted on a door if wall space is unfeasible, and shall be designed and constructed with provisions to allow for changes of occupancy without reconstruction of the entire sign.

2. Door Sign: Any sign which is affixed to an exterior door. Door signs are allowed only where the door provides the only access to a single commercial

establishment not on the street level and are limited to a maximum of one (1) square foot in size. The door sign shall be in character with the architectural style of the door.

3. Multi-Tenant Buildings: At the discretion of the Planning Board, one (1) directory sign as defined above and one (1) hanging or wall sign may be allowed for each above-street level business within the building as follows:

| | |
|---|---|
| Wall Sign-Independent (framed) | 8.5 s. f. |
| Hanging (first-level) | 5.0 s. f. |

Factors to be considered include the size and configuration of the building, number of stories and relative space allocations within the building. Additionally, a window or door sign may also be allowed in instances where pedestrian traffic, building configuration and general character the building are found to meet the purposes of this application and review section.

4. Window Sign: A sign which is permanently affixed to the surface of the glass of any part of any establishment. Signs affixed to glass are considered part of the total allowable sign area for the frontage and shall not occupy more than 20% of the glass area. Sign design shall be black or gold lettering of a font size not larger than 2.5 inches.

5. Banner Sign: Any sign constructed of fabric. Pennants and flags are considered banner signs. Banners may only be used as temporary signs. Temporary banners not requiring formal review are described in section 3.1. under "Temporary Signs." The following regulations apply to banners used as decorative devices:

| | | |
|---|---|---|
| 1. | As a wall sign: | Sign area - See Table A |
| | Above street level: | See Section VII.2. (1) |
| 2. | As a hanging sign: | Sign area - See Table A |

Projection: not more than 4'8" from a building or 2/3 the width of the sidewalk, whichever is less.
Clearance: not less than 10' clear space between the bottom of the banner and grade level. This height restriction may be waived to a minimum of 7' clear space between the bottom of the sign and grade level if in the opinion of the Inspector of Buildings such a reduced height is appropriate.

Note: Because of the potential for deterioration, banners present special maintenance problems. The City through its Inspector of Buildings reserves the right to order the removal, at the owner's expense, of all banners not adequately maintained.

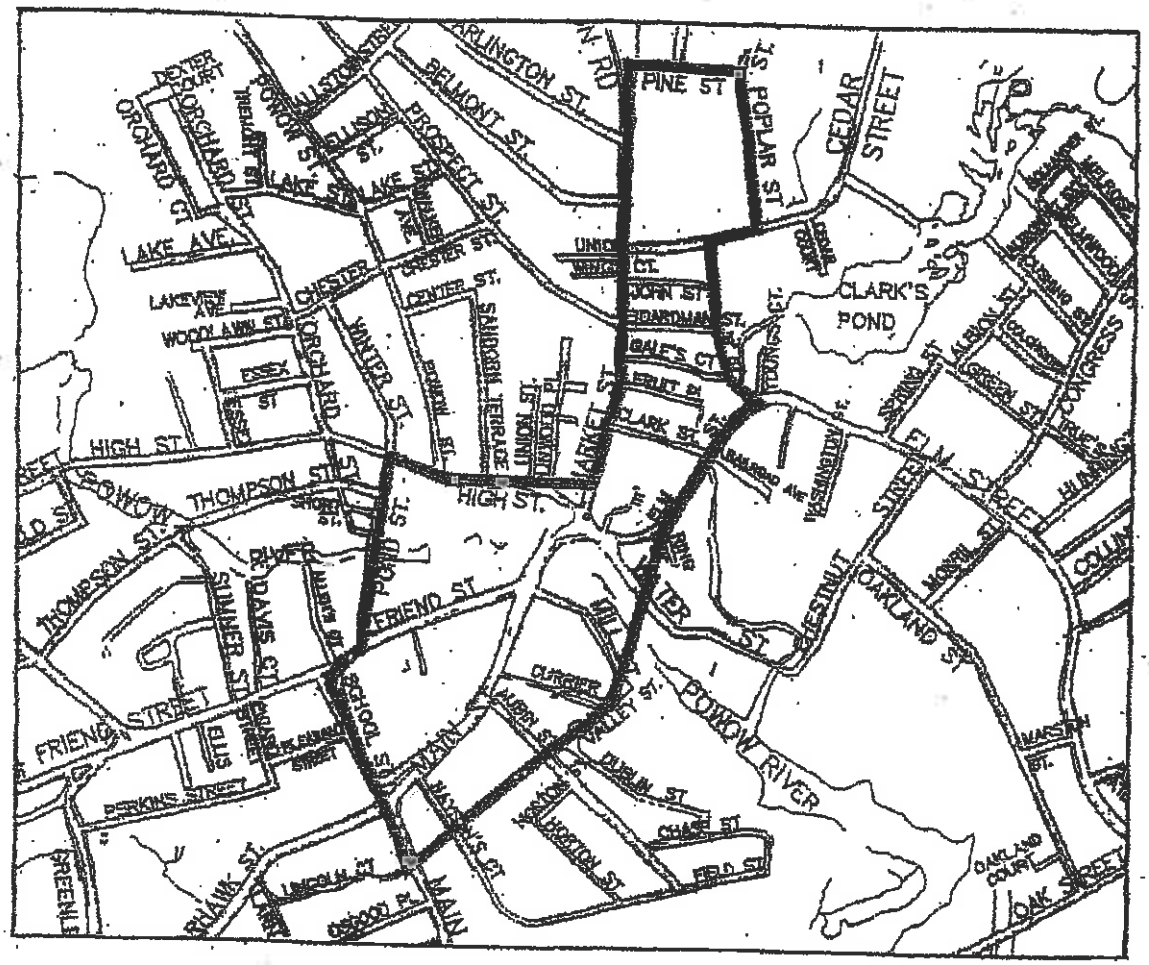
**TABLE A**
**ALLOWABLE SIGN AREA (SQUARE FEET)**
**LINEAL FRONTAGE**

| SIGN TYPE | SIGN LOCATION | 8 | 12 | 16 | 20 | 24 | 28 | 32 | 36 | 40 | 44 | 48 | 52 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| WALL SIGN INDEPENDENT | PRIMARY (1.) | 11.5 | 14 | 16 | 18 | 19.5 | 21 | 22.5 | 24 | 25 | 26.5 | 28 | 29 |
| | SECONDARY (2.) | 7 | 8.5 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 16.5 | 17 | 18 |
| WALL SIGN DIRECT APPLIED | PRIMARY (2.) | 7 | 8.5 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 16.5 | 17 | 18 |
| | SECONDARY (3.) | 4 | 5 | 6 | 6.5 | 7.5 | 8 | 8.5 | 9 | 9.5 | 10 | 10.5 | 11 |
| HANGING SIGN | PRIMARY (3.) | 7 | 8.5 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 16.5 | 17 | 18 |
| | SECONDARY (3.) | 4 | 5 | 6 | 6.5 | 7.5 | 8 | 8.5 | 9 | 9.5 | 10 | 10.5 | 11 |
| BANNER-WALL SIGN | PRIMARY (1.) | 11.5 | 14 | 16 | 18 | 19.5 | 21 | 22.5 | 24 | 25 | 26.5 | 28 | 29 |
| | SECONDARY (2.) | 7 | 8.5 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 16.5 | 17 | 18 |
| BANNER HANGING | PRIMARY (2.) | 7 | 8.5 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 16.5 | 17 | 18 |
| | SECONDARY (3.) | 4 | 5 | 6 | 6.5 | 7.5 | 8 | 8.5 | 9 | 9.5 | 10 | 10.5 | 11 |

(1.) Area based on formula - sign area = 4.0 times the square root of lineal frontage
(2.) Area based on formula - sign area = 2.5 times the square root of lineal frontage
(3.) Area based on formula - sign area = 1.5 times the square root of lineal frontage

ALLOWABLE AREA FIGURES SHOWN IN SQUARE FEET

**TO USE THIS CHART:** DETERMINE LINEAL FRONTAGE OF ESTABLISHMENT (top line of chart)
DECIDE ON PROPOSED SIGN TYPE (column at left)
THE INTERSECTION OF THE TWO COLUMNS SHOWS MAXIMUM ALLOWABLE SIGN AREA IN SQUARE FEET.




# AMESBURY
## DOWNTOWN SIGN DISTRICT

# SECTION VIII

## OFF-STREET PARKING AND LOADING REGULATIONS

A. Off-Street Parking and Loading Requirements: In any district, if any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed to a more intensive parking use according to Table of Off-Street Parking Regulations after the effective date of this Bylaw, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of this Bylaw shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25 percent, whether such increase occurs at one time or in successive stages.

B. Existing Spaces: Parking and loading spaces being maintained in any district in connection with any existing use on the effective day of this Bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed within 300 feet such that the total number of spaces conforms to the requirements of the tables of this section, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

C. Computation of Spaces: When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over one-half (½) shall require one (1) space.

D. Combined Facilities: Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Zoning Compliance Officer and the Planning Board, where it is evident that such facilities will continue to be available for the several buildings or uses.

E. Joint Facilities: Joint use of parking areas is encouraged where use may be made by intermittent parking facilities such as churches, assembly halls, or theaters, whose peak parking demand does not conflict with that of the other use. An agreement shall be made in writing and acknowledged by the owner(s) of the uses involved concerning: the number of spaces involved; substantiation of the fact that such joint use is not overlapping or in conflict; and the duration of the agreement. The Agreement must be presented with the application to the Planning Board for approval.

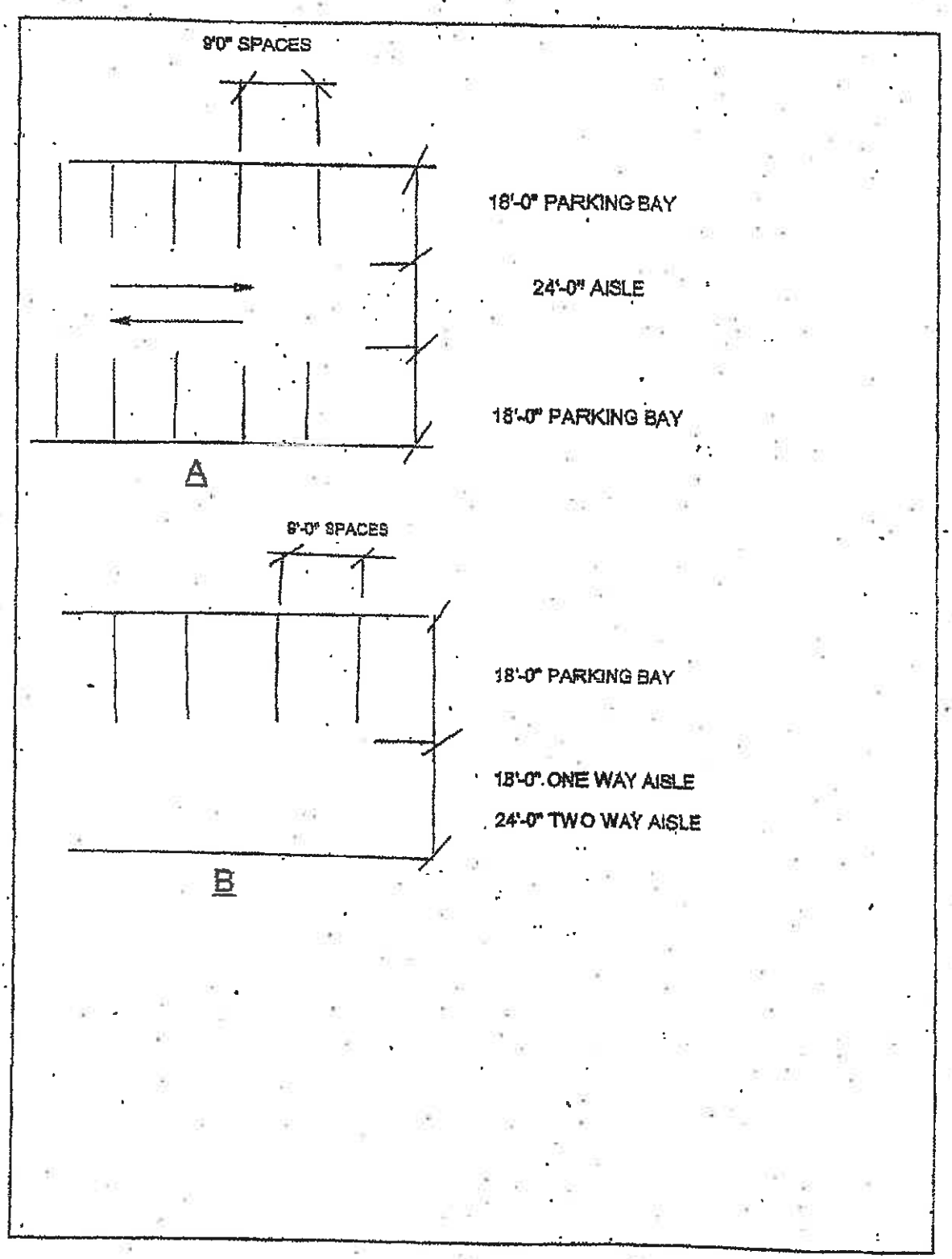
F. Location of Parking and Loading Spaces: Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or when practical difficulties as determined by the Planning Board prevent their establishment upon the same lot, they shall be established no further than 300 feet of the building that the parking lot will serve. Note, where the building is located no further than 300 feet from an off-street public parking lot, off-street parking is not required when practical difficulties exist in providing off-street parking spaces. Loading spaces in all cases shall be on the same lot as the use they are intended to serve. In no case shall the required loading space be part of the area used to satisfy the parking requirements of the Bylaw.

G. Parking and Loading Space Standards: All parking and loading areas containing over five (5) spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

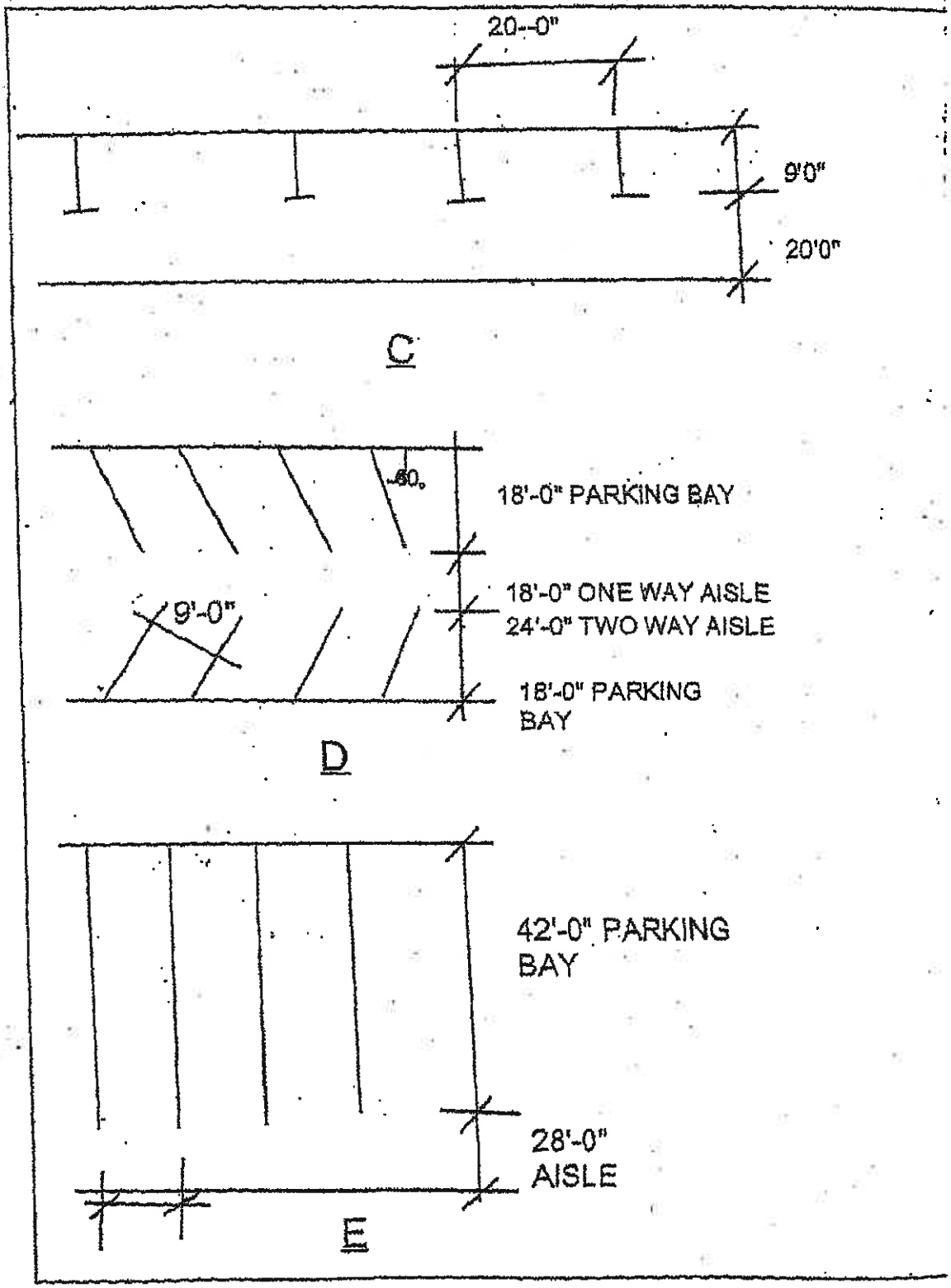
1. For all zoning districts, off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, or the development of a new land use, in accordance with the Table of Off-Street Parking and Loading Regulations.
2. All uses shall provide parking spaces to accommodate the vehicles of occupants, employees, members, customers, clients, residents, service vehicles and visitors to the premises according to the Table of Off-Street Parking and Loading Regulations.
3. In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses compared separately.
4. There shall not be any vehicle repair for profit or gasoline or oil service facilities or any repair made to motor vehicles, except on a lot occupied by a permitted automobile use. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line.
5. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.
6. Unless otherwise determined by the Planning Board through a site analysis of the primary or secondary resources of the property described and shown under Section XI.D.3a as well as traffic patterns and circulation plans, (6/12/01) parking areas and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained as to dispose of all surface water accumulation. Vertical granite curbing is required along all entryway radii. Sloped granite is required along driveways, landscaped islands and the perimeter of the parking areas. However, in instances where drainage, and storm water management design proposed on the site use Low Impact Development (LID) strategies instead of a conventional storm drainage system throughout the project site, the Planning Board may waive/reduce any curbing requirements. 2009-060
7. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curb line of any intersecting street.
8. Any two (2) driveways leading to or from a street or from a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot.
9. Any entrance or exit driveway shall not exceed twenty-four (24) feet in width at its intersection with the front lot line except in the Regional Commercial Zoning District where entrance or exit driveways may be no more that sixty (60) feet including at least a six (6) foot wide landscaped median strip. Further, in the RCZD, developable lots that are more than 10 acres shall be permitted an additional, but secondary access or egress driveway, not to exceed twenty-eight (28) feet in width, to ensure safe traffic circulation.
10. All driveways in "R" Districts shall be placed a minimum of five (5) feet from any property line.
11. Parking spaces shall not be located within the required front yard setback in any district except in the R-8, R-20, R-40, and R-80 districts. (2011-030) In all commercial districts, off-street parking shall not occupy more than 50% of the lot frontage along a public way.
12. Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any street.
13. All off-street parking spaces must be at least nine (9) feet in width, eighteen (18) feet in length with an aisle twenty-four (24) feet in width for a two-way double loaded bay and eighteen (18) feet in width for a one-way single loaded bay. In particular circumstances, the alternative parking lot configurations, shown in figures A, B, C, D, & E below, may be allowed at the discretion of the Planning Board.
14. All off-street parking and loading spaces, access ways, and maneuvering area shall be laid out so as to provide for adequate drainage, snow removal, maneuverability and curb cuts.

15. (2011-030) A pedestrian sidewalk, at least five (5) feet wide, shall be established adjacent to all buildings with public entrances. A landscape buffer (which may be a combination of landscaping and pedestrian facilities such as walkways or seating areas) shall be established along all building walls that are located directly along a public way and parking areas. No vehicles shall be parked or overhang into any landscape buffer strip or pedestrian sidewalk.
16. Parking areas containing over 20 parking spaces shall have at least one shade tree per eight (8) parking spaces, such trees to be a minimum of 2 1/2" in diameter and located either in the parking area or within ten (10) feet of it. At least five (5) % of the interior of any parking area over 20 spaces shall be maintained with landscaping, including trees, in plots of at least nine (9) feet in width when located within a parking bay. Trees shall be so located to provide visual relief from sun and wind interruption within the parking area, and to assure safe patterns of internal circulation. Further, no more than twenty (20) spaces shall be provided in a row without separation by a landscaped area containing at least one (1) shade tree. In the case of double rows, this separation shall mean twenty (20) spaces on each side of the bay areas.
17. Parking areas shall be designed so that vehicles cannot extend over pedestrian walkways or damage any wall or other obstruction. Where parking areas abut a sidewalk or pedestrian walkway, these sidewalks or walkways must be set back at least three (3) feet from the parking curb.
18. All parking areas shall provide handicapped parking spaces and access ramps, as required by the Americans with Disabilities Act (ADA as amended).
19. Any fixtures used to illuminate any parking area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

PARKING PLANS A & B




Amesbury Zoning Bylaw 2011 Parking Plan A/B




Amesbury Zoning Bylaw 2011 Parking Plan C/D/E

## TABLE OF OFF-STREET PARKING REGULATIONS

| USES | Number of Parking Spaces Per Unit |
|---|---|
| 1. Dwelling or apartment house | 1.5 for each dwelling or apartment unit |
| 2. Lodging House | 1 for each lodging unit |
| 3.Theater, restaurant, auditorium, church or similar place of public assembly with seating facilities | 1 for each four (4) seats of total seating capacity |
| 4. Automotive repair and ser vice establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor, which are usually in such use extensive in relation to customer traffic | 2 per 1,000 square feet of Gross Floor Area(GFA) plus 1.5 per 1,000 square feet of display (does not include stock areas closed to the public) plus 3 per service bay |
| 5. Gas / Service Station | 1 space/service island, plus 1 space per 200 sq. ft. of GFA |
| 6. General Business Offices | 3.6 per 1000 square feet of GFA |
| 7. Financial Services Offices | 4 per 1000 square feet of GFA |
| 8. Medical Offices | For buildings with 5,000 sq. ft. or less, 6 spaces per1,000 sq. ft. of GFA; for buildings greater than 5,000 sq. ft. GFA, 5.5 sq. ft. of GFA |
| 9. General Retail & Service | 3.3 per 1,000 square feet of GFA |
| 10. Shopping Centers | 4 per 1000 square feet of GFA |
| 11. Hotel, tourist court | 1 for each sleeping room plus 1 for each 200 sq. ft. of public meeting room and restaurant space |
| 12. Wholesale establishment, warehouse, or storage establishment | 1 per each 1,000 square feet of gross floor space |
| 13. Manufacturing or industrial establishment | 1 per each 500 sq. ft, of GFA or 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger |
| 14. Hospital | 2 per bed at design capacity |
| 15. Group, Convalescent and Nursing Homes | 1 space per two (2) beds |
| 16. Business, trade, industrial school or college | 1 for each 200 sq. ft. of GFA in classroom |
| 17. Other school | 2 per classroom in an elementary and junior high school; 4 per classroom in a senior high school plus 1 space for every 200 sq. ft. of auditorium or gymnasium space, whichever has the larger capacity |
| 18. Day Care Center | 1 space per employee plus 0.1 space per person of licensed capacity enrollment plus drop-off spaces equal to one for each four enrollees permitted |
| 19. Community facility (city building, recreation, etc.) | 1 per 400 sq. ft. of GFA |
| 20. Dormitory, fraternity, sorority, YWCA, or similar use | 1 for each sleeping room |

| | |
|---|---|
| 21. Public utility | 4 per 1000 sq. ft. of GFA devoted to office use, plus 1 per 1000 sq. ft. of GFA for other use |
| 22. Transportation terminal establishment | 1 per 600 sq. ft. of GFA |
| 23. Mixed use | Sum of various uses computed separately |
| 24. Any use permitted by this Bylaw not interpreted this table | Closest similar use as shall be determined by the Zoning Compliance Officer & to be covered by Planning Board |
| 25. Dockage-parking for moored, docked and trailored boats | None for the boats of residents of the site or for the boats of an applicant who has the required two spaces per boat within 0.2 miles of the site of his access to the water. Two spaces per boat of applicant not mentioned above. These parking spaces must conform to the conditions outlined in Section VIII.F.14. In addition, for each trailered boat, the parking space must be at least eleven (11) feet wide and forty-two (42) feet in length with a twenty-eight (28) foot driveway width. These parking spaces for private facilities may be on live grass or pavement; however, the spaces and driveways must be considered non open space |
| 26. Marina-commercial site parking for moored, docked, and trailered boats, including charter boats and boats carrying passengers for hire | 0.7 spaces per crew member and passenger of a charter boat or boat carrying passengers for hire that embark from the site. 1 trailered boat space(shown in VIII.F.14) and 0.6 spaces per trailered boat |
| | All other boats as follows:<br>1-10 boats 2 spaces per boat<br>11-20 boats 1.5 spaces per boat<br>21-80 boats 1.1 spaces per boat<br>more than 80 boats 0.9 spaces per boat |
| | Up to 80% of the parking spaces may be used for winter storage of boats, floats, runways, and associated equipment. On or before May 15th, 70 percent of the parking area must be clear and available for motor vehicle parking. By June 15th, 100 percent of the parking area must be clear and available for motor vehicle parking |

Note: An applicant in a PUD district shall not be subject to the above requirements insofar as residential and tenant parking would duplicate marina parking requirements. The size of marina parking spaces in a PUD District shall be as indicated in Section XI.H.19 of the Amesbury Zoning Bylaw.

**TABLE OF OFF-STREET LOADING REGULATIONS**

| USES | Number of Loading Spaces Per Unit |
|---|---|
| Retail trade, manufacturing and hospital establishment with over 5,000 square feet of GFA | 1 per 20,000 sq. ft. of GFA up to two (2) spaces; 1 additional space for each 60,000 sq. ft. or fraction thereof of the GFA over 40,000 sq. ft; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements |
| Business services, other services, community facility (school, church, city building, recreation, etc.) or public utility establishment with over 5,000 sq. ft. of GFA | 1 per 75,000 sq. ft. or fraction thereof of GFA up to two (2) spaces; one additional space for each 200,000 sq. ft. or fraction thereof of GFA over 150,000 sq. ft |

# SECTION IX

## NONCONFORMING USES, STRUCTURES, AND LOTS

A. Nonconformity by Initial Enactment or Amendment: The provisions of this section apply to nonconforming uses, structures, and lots as created by the initial enactment of this Bylaw or by any subsequent amendment.

B. Extension and Alteration:

1. Preexisting nonconforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension, or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or uses, or unless such a finding is made by the Planning Board pursuant to Section VI.F.11 of this Bylaw.

2. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

B.1. Limited Findings by the Building Inspector

Except as hereinafter provided, all pre-existing, nonconforming structures or uses may be changed, extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be more substantially detrimental to the neighborhood than the existing nonconforming structure or uses, or unless such a finding is made by the Planning Board pursuant to Section VI.F.11 of this Bylaw.

Provided however, a legally nonconforming, single-family or two-family residential structure may be changed, altered or extended provided the Inspector of Buildings determines the following:

a) The proposed change, alteration or extension complies with the current Amesbury Zoning Bylaws;
b) The proposed change, alteration or extension does not intensify the existing non- conformity. Any change, alteration or extension to the non-conforming portion of the structure shall be considered an intensification;
c) The proposed change, alteration or extension is not in violation of any other applicable laws or regulations;
d) There is no change in use of the structure;
e) The proposed change, alteration or extension is not in excess of two hundred eighty (280) square feet and twelve (12) feet in height from ground level.

If the Inspector of Buildings determines that the proposed change, alteration or extension to a legally nonconforming, single-family or two-family residential structure complies with the requirements a) through e) listed above, then the proposed change, alteration or extension shall be allowed as a matter of right. After the Inspector of Buildings determines that the proposed change, alteration or extension to a legally nonconforming, single-family or two-family

residential structure complies with the requirements of a) through e) listed above, then the Inspector of Buildings may issue the appropriate permit(s). In issuing said permit(s), the Inspector of Buildings shall state on said permit(s) that the proposed change, alteration or extension is allowed under this section of the Amesbury Zoning Bylaws.

C. Residential Lot of Record: Any increase in area, frontage, width, yard, or depth requirements of this Bylaw shall not apply to a lot for a single or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements, and has less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

D. Exemption for Definitive Plans and Plans Endorsed Under Approval of Subdivision Control Law Not Required:

1. If a definitive plan, or a preliminary plan followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under subdivision control law, and written notice of such submission has been given to the City Clerk before the effective date of the Bylaw, the land shown on such plan shall be governed by the applicable provisions of the Zoning Bylaw in effect at the time of the first such submission while such plan or plans are being processed under the subdivision control law, and if such definitive plan or any amendment thereof is finally approved, for eight (8) years from the date of endorsement of such approval, except in the case where such plan was approved before January 1, 1976, for seven (7) years from the date of the endorsement of such approval.

2. When a plan referred to in Section 81P of Chapter 41 of the Massachusetts General Laws has been submitted to the Planning Board and written notice of such submission has been given to the City Clerk, the use of the land shown on such plan shall be governed by applicable provisions of the Zoning Bylaw in effect at the time of submission of such plan while such plan is being processed under the subdivision control law including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three (3) years from the date of endorsement by the Planning Board that approval under subdivision control law is not required, or words of similar import.

3. Disapproval of a plan shall not serve to terminate any rights which have accrued under the provisions of the above, provided an appeal from the decision disapproving said plan is made under applicable provisions of the subdivision control law. Such appeal shall stay, pending an order of decree of a court of final jurisdiction, the applicability of the land shown on said plan of the provisions of this Bylaw which become effective after the date of submission of the plan first submitted.

4. In the event any lot shown on a plan endorsed by the Planning Board is the subject matter of any appeal or any litigation, the exemptive provisions shall be extended for a period equal to that from the date of filing of said appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

E. Change:

1. Any nonconforming use of a structure may be changed to another nonconforming use, provided the changed use is not a substantially different use, except as provided in

paragraph 2 below, and approval for the change is granted by a special permit by the Board of Appeals.

For purposes of this section, a substantially different use is a use which by reason of its normal operation, would cause readily observable differences in patronage, service, sight, noise, employment, or similar characteristics, from the existing nonconforming use or from any permitted use in the district under question.

2. Any nonconforming use which has been once changed to a permitted use or another nonconforming use which is not a substantially different use shall not again be changed to another nonconforming use.

3. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

4. Any nonconforming lot or open space on the lot (yards, setbacks, courts, or building area) if already smaller or greater, as the case may be, than that required, shall not be further reduced or increased so as to be in greater nonconformity.

F. Restoration: Any nonconforming building or structure which has been damaged or destroyed by fire or accidental cause may be rebuilt in the same location provided such rebuilding, reconstruction, or restoration shall be undertaken within one (1) year of such catastrophe, and the structure as rebuilt or restored shall not extend further into any previously deficient front, side, or rear yard and not be in greater nonconformity with any other provision of this Bylaw than the original structure.

G. Abandonment: Any nonconforming use of a structure or lot which has been abandoned or not used for a continuous period of two (2) years or more shall not be used again except for a conforming use.

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

I. Maintenance, Repair, and Reconstruction of Unsafe Structures: Nothing in this Bylaw shall be deemed to restrict the normal maintenance and repair on nonconforming structures or prevent reconstruction to a safe condition of any structure or part thereof declared to be unsafe. However, such work on any nonconforming structure shall not place it in greater nonconformity.

# SECTION X

## ADMINISTRATION AND ENFORCEMENT

### A. Administrative Official:

The duty of administering and enforcing the provisions of this Bylaw is hereby conferred upon the Inspector of Buildings who shall have such powers as are conferred upon him by this Bylaw and as reasonably may be implied. He shall be appointed by the Mayor as specified by the Charter of the City of Amesbury. It shall be the duty of the Inspector of Buildings, or his duly authorized agents, to cause any plans, buildings, or premises to be examined or inspected to determine that they are not in violation of the provisions of this Bylaw.

Where the Inspector of Buildings, in the course of his duties, determines that any plans, building, or premises are in violation of the provisions of this Bylaw, he shall order the responsible party in writing to remedy such condition. Said written order shall specify the nature of the violation found to exist, the remedy ordered, the time permitted for such action, and the penalties and remedies which may be invoked by the Town, and the violator's right of appeal all as provided for by this Bylaw.

If the Inspector of Buildings is requested in writing to enforce this Bylaw against any person allegedly in violation of same, and the Inspector of Buildings declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days after such receipt.

### B. Permits:

1. Building Permit: It shall be unlawful for any owner or person to erect, construct, reconstruct, or alter a structure, including a sign, or change the use or lot coverage, increase the intensity of use, or extend or displace the use of any building, structure, or lot without applying for and receiving from the Inspector of Buildings the required building permit thereof. For purposes of administration, such permit and application procedure involving a structure may be made at the same time, and combined with the permit required under the Building Code.

No permit shall be issued under this section if the building, structure, or lot as constructed, altered, relocated, or used would be in violation of any provisions of this Bylaw. Whenever such permit or license is refused because of the violation of a provision(s) of this Bylaw the reason(s) therefore shall be clearly stated in writing.

2. Certificate of Occupancy Required: No building hereafter erected or altered substantially in its use or extent, or relocated shall be used or occupied, and no change shall be made of the use of any building or of any parcel of land, unless a Certificate of Occupancy, signed by the Inspector of Buildings, has been granted to the owner or occupant of such land or buildings. Such certificate shall not be granted unless the proposed use of land and building and all accessory uses comply in all respects with this Bylaw, and to use shall be made of such land or building that is not authorized by such Certificate of Occupancy. Applications for Certificates of Occupancy shall be filed coincident with the application for building permits and shall be issued or refused in writing for cause within ten (10) days after the Inspector of Buildings has been notified in

writing that the erection or alteration of such buildings has been completed. Failure of the Inspector of Buildings to act within ten (10) days of receipt of said notification shall be deemed to constitute approval of the application for a Certificate of Occupancy. Buildings accessory to dwellings when completed at the same time shall not require a separate Certificate of Occupancy. The Certificate of Occupancy shall be posted by the owner or occupant of the property for a period of not less than ten (10) days after issuance. Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building, pending its completion. No temporary certificate shall be issued prior to its completion if the building fails to conform to the provisions of the Building Code and state laws or of this Bylaw to such a degree as to render it unsafe for the occupancy proposed.

C. **Permit and Certificate Fees:** Building Permit and Certificate of Occupancy fees shall be established from time to time by the Mayor.

D. **Permit Time Limits:** Any work for which a permit has been issued by the Inspector of Buildings shall be actively prosecuted within ninety (90) days, and completed within one (1) year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one (1) year may be extended at the discretion of the Inspector of Buildings.

E. **Violations:** If the Inspector of Buildings shall be informed or have reason to believe that any provision of this Bylaw has been, is being, or may be violated, he shall make or cause to be made an investigation of the facts, and inspect the property where the violation may exist. If he shall find any such violation, he shall serve a notice of **VIOLATION AND ORDER** to any owner or person responsible for such violations of the provisions of this Bylaw, or in violation of any approved plan, information or drawing pertinent thereto, or in violation of the conditions of a special permit, variance, or other certificate issued under the provisions of this Bylaw, and such order shall direct the discontinuance of the unlawful action, use, or condition, and the abatement of the violation within a time to be specified by the Inspector of Buildings. Any owner, who having been served with a notice, and who ceases any work or other activity, shall not leave any structure or lot in such condition as to be a hazard or menace to the public safety, health, or general welfare.

F. **Prosecution of Violations:** If the notice of **VIOLATION AND ORDER** is not complied with promptly, the Inspector of Buildings or the Mayor shall institute appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition, and to restrain, correct to abate such violation. Penalties may be affixed in an amount not to exceed three hundred dollars ($300.00) for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense. As an alternative to other lawful means of enforcing this Bylaw and said penalty, the enforcing officer may initiate proceedings in District Court for non-criminal disposition in accordance with M.G.L. Chapter 40, Section 21D.

G. **Board of Appeals:**

1. Membership: There shall be a Board of Appeals of five (5) members and three (3) associate members. The Board of Appeals shall annually elect a chairperson, and a clerk from its membership.

2. Appointment: Members of the Board in office at the effective date of this Bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Mayor shall

make appointments pursuant to Section 12 of the Zoning Act. The members shall be appointed to five (5) year terms such that the term of one (1) member shall expire each year. The associate members shall be appointed to three (3) year terms such that the term of one (1) associate member shall expire each year.

3. Powers: The Board shall have those powers granted under the Zoning Act. The powers of the Board of Appeals shall include the power to:

a. hear and decide appeals in accordance with Section 8 of the Zoning Act.

b. hear and decide petitions for a variance in accordance with Section 10 of the Zoning Act.

c. hear and decide applications for certain classes of special permits it is specifically empowered by this Bylaw to decide upon, in accordance with Section 9 of the Zoning Act.

In exercising the powers, the Board of Appeals may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter.

In exercising these powers, the Board of Appeals may, in conformity with the provisions of this Bylaw and the Zoning Act, revise or affirm in whole or in part, or may modify, any order or decision, and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.

4. Adoption of Rules: The Board of Appeals shall adopt rules, pursuant to the Zoning Act, and not inconsistent with the provisions of this Bylaw, for conducting its business and otherwise carrying out the purposes of the Zoning Bylaw. A copy of such rules shall be filed in the office of the City Clerk.

5. Meetings and Hearings: Meetings and hearings of the Board of Appeals shall be at the call of the Chairperson or when called in such other manner as the Board of Appeals may determine in its rules. All hearings of the Board of Appeals shall be open to the public. The Chairperson, or in his absence the acting Chairperson, may administer oaths, summon witnesses, and call for the production of papers. The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it by the City Clerk within sixty-five (65) days from the transmittal to the Board of Appeals of such appeal, application, or petition.

In all cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the City, once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days (not including the date of the hearing) before the day of the hearing, and by posting such notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of such hearing (not including the date of the hearing). In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. "Parties in interest" as used in this Bylaw shall mean (1) petitioner, (2) abutters, (3) owners of land directly opposite on any public or private street or way, and (4) owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, (5) the Planning Board of Amesbury and the Planning Board of every abutting city or town. The assessors maintaining any

applicable tax list shall certify to the Board of Appeals the names and addresses of parties of interest, and such certification shall be conclusive for all purposes. The Board of Appeals may accept a waiver of notice from, or an affidavit of actual notice to any party in interest, or in his stead, any successor owner of record who may not have received a notice of mail, and may order special notice of any such person, giving not less than five (5) nor more than ten (10) additional days to reply.

Publication and notice required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises, which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of the action or relief requested if any. No such hearing shall be held on any day which is a state or municipal election, caucus, or primary held in Amesbury.

6. Decisions: Decisions of the Board of Appeals shall be made within seventy-five (75) days after the filing of an appeal, application, or petition except in regards to special permits. Failure by the Board to act within said seventy-five (75) days shall be deemed to be the granting of relief application or petition sought, subject to an applicable judicial appeal. The Board of Appeals shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indication of such fact, and setting forth clearly the reason or reasons for its decision, and of it official actions, copies of all of which shall be filed within fourteen (14) days in the office of the City Clerk, and shall be a public record; and notice of the decision shall be mailed forthwith to the petitioner, applicant, or appellant, to the "parties in interest" as defined in Section X.G.5 of this Bylaw, and to every person present at the hearing who requested that such notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify what appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, and shall be filed within twenty (20) days after filing of such notice in the office of the City Clerk.

H. **Appeals:**

1. Any person as defined by Section 8 of the Zoning Act aggrieved by reason of his inability to obtain a permit from the Inspector of Buildings under the provisions of this Bylaw or by any order or decision of the Inspector of Buildings may take an appeal to the Board of Appeals.

2. Appeals pursuant to Section 8 of the Zoning Act shall be taken within thirty (30) days from the date of the order or decision which is being appealed by filing a Notice of Appeal, specifying the grounds thereof, with the City Clerk, who shall forthwith transmit copies thereof to such officer whose order or decision is being appealed, and to the Board of Appeals. The officer shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

3. Appeals shall be filed in the manner described in Section X.G.5.

4. The decision of the Board of Appeals shall be made within the time specified in Section X.G.6. The time period for the holding of the public hearing is included in the seventy-five (75) day period referred to in the section cited.

5. No appeal shall be granted unless there is a concurring vote of at least four (4) members of the Board of Appeals.

6. If the Board of Appeals fails to act within the specified time period, the petitioner shall be deemed to grant the relief sought as provided in Section X.G.6.

I. Variances:

1. Petition to Board of Appeals: The Board of Appeals may in accordance with Section 10 of the Zoning Act and this section of this Bylaw, grant upon appeal or upon petition with respect to particular land or structure a variance from the terms of this Bylaw.

2. Required Hearing and Notice: Appeals or petitions for a variance shall be filed and hearings shall be held in the manner described in Section X.G.5.

3. Findings Required: Before granting a variance from the terms of this Bylaw, with respect to particular land or structures, the Board of Appeals shall find that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of this Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

4. Conditions, Safeguards, and Limitations: The Board of Appeals may impose conditions, safeguards, and limitations both of time and use, including the continued existence of any particular structure, but excluding any condition, safeguards, or limitation based upon the ownership of the land or structures to which the variance pertains by the applicant, petitioner, or owner.

5. Decisions and Vote Requirements: The decision of the Board of Appeals shall be made within the time specified in Section X.G.6. The time period for the holding of the public hearing is included in the seventy-five (75) day period referred to in the section cited. If the Board of Appeals fails to act within the specified time period, the petitioner shall be deemed to grant the relief sought, as provided in Section X.G.6.

No variance shall be granted unless there is a concurring vote of at least four (4) members of the Board of Appeals. The decision regarding the variance shall contain: (1) the name and address of the owner; (2) identification of the land and/or structure affected; (3) a description of how the variance complies with the statutory requirements of issuing a variance; (4) certification that copies of the decision have been filed with the Planning Board and the City Clerk; (5) specifications that any appeals shall be made pursuant to Section 17 of the Zoning Act, and shall be filed within twenty (20) days after the date the notice of decision was filed with the City Clerk.

6. Filing of Decision: Upon granting or denying a variance the Board of Appeals shall forthwith: (1) file a copy of the decision with the Planning Board and City Clerk; (2) mail a certified copy of its decision to the owner; (3) send a notice of the decision to the "parties of interest" and to persons who requested a notice of the public hearing; and (4)

within fourteen (14) days file copies of the detailed record of its proceedings with the office of the City Clerk. Each notice shall specify that any appeals shall be made pursuant to Section 17 of the Zoning Act and shall be filed within twenty (20) days after the date of filing of such notice with the City Clerk.

7. Effective Date: A variance shall not take effect until (1) the City Clerk certifies on a copy of the decision that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed or denied; (2) the certified decision has been recorded at the owner's expense in the applicable registry of deeds, indexed in the grantor index under the name of the record owner, and noted on the owner's certificate of title. If registered property is involved, the decision shall also be filed with the recorder of the Land Court.

8. Expiration of Variance: If the rights authorized by the variance are not exercised within one (1) year of date of such variance they shall lapse, and may be reestablished only after notice and a new hearing pursuant to this section.

## J. Special Permits:

1. Special Permit Required: Certain uses, structures, or conditions are designated in Section V, Table of Use Regulations, as requiring a special permit. Upon written application duly given to the Special Permit Granting Authority, said authority may in appropriate cases subject to the applicable conditions set forth in the sections below and elsewhere in this Bylaw and subject to appropriate conditions, safeguards, and limitations grant a special permit.

2. Special Permit Granting Authority: Any board designated as Special Permit Granting Authority in this Bylaw may hear and decide applications for those classes of special permits upon which such board is specifically authorized to act under Section V (Table of Use Regulations) of this Bylaw. Such Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the City Clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedures for the submission and approval of such permits.

3. Required Hearing and Notice: Special permits may only be issued following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority. Notice of public hearing shall be given by publication in a newspaper of general circulation in the City once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "parties of interest" as provided in Section 11, Chapter 40A of the General Laws which include the petitioner, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred (300) feet of the property line all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board of Amesbury, and the Planning Board of every abutting city or town. The assessors maintaining any applicable tax list shall certify to the Special Permit Granting Authority the names and addresses of "parties in interest" and such certification shall be conclusive for all purposes. The Special Permit Granting Authority may accept a waiver of notice

from, or an affidavit of actual notice to any party in interest, or, in his stead, any successor owner of record who may not have received a notice of mail, and may order special notice to any such person, giving not less than five (5) nor more than ten (10) additional days to reply. Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of the action or relief requested if any. No such hearing shall be held on any day which is a state or municipal election, caucus, or primary held in Amesbury.

4. Review by Other Boards and Agencies: At the discretion of the Special Permit Granting Authority such authority may within ten (10) days after receipt of an application for special permit transmit a copy thereof for review to the Board of Health, the Planning Board, the Municipal Council, the Conservation Commission, and another municipal board or agency designated in such Authority's rules and regulations. Any board or agency to which such applications are referred for review shall make such recommendations as they deem appropriate and shall send copies thereof to the Special Permit Granting Authority and to the applicant; provided however, the failure to make within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

5. Findings Required: Before granting a special permit for any use requiring such permit under the provisions of this Bylaw, the Special Permit Granting Authority shall find all of the following general conditions to be fulfilled:

a. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made.

b. The requested use is essential and/or desirable to the public convenience or welfare.

c. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

d. The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of City will be unduly subjected to hazards affecting health, safety, or the general welfare.

e. Any special regulations for the use set forth in Section XI of this Bylaw are fulfilled.

f. The requested use will not impair the integrity or character of the district or adjoining districts nor be detrimental to the health or welfare.

g. The requested use will not by its addition to a neighborhood cause an excess of that particular use that could be detrimental to the character to said neighborhood.

6. Conditions, Safeguards, and Limitations: Special permits may be issued subject to such conditions, safeguards, and limitations as the Special Permit Granting Authority may impose for the protection of the neighboring uses or otherwise serving the purposes of this Bylaw. Such conditions, safeguards, and limitations may include, but are not limited to, the following:

a. Front, side, and rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls as specified by the Authority.

b. Limitations upon the size, number of occupants, method and time of operation, time duration of the permit or extent of the facilities.
c. Regulations of number and location of driveways or other traffic features; and off-street parking or loading, or other special features beyond the minimum required by this Bylaw.

Any conditions, safeguards or limitations shall be imposed in writing and shall be a part of the permit.

7. Site Plan Required: Any application for a special permit shall be accompanied by a Site Plan containing such information as may be required by the Special Permit Granting Authority. The application shall also contain other information as required by this Bylaw and the rules and regulations of the Special Permit Granting Authority.

8. Decisions and Vote Requirements: Special Permit Granting Authority shall act within ninety (90) days following the date of public hearing. Failure to take final action upon an application for special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

Special permits issued by a Special Permit Granting Authority shall require a two thirds vote of boards with more than five (5) members, a vote of at least four (4) of a five member board, and a unanimous vote of a three (3) member board.

The decision regarding the special permit shall contain: (1) the name and address of the owner; (2) an identification of the land and/or structures affected; (3) a description of how the special permit complies with the requirements of issuing a special permit; (4) certification that copies of the decision have been filed with the Planning Board and City Clerk; (5) specification that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, and shall be filed within twenty (20) days after the date the notice of the decision was filed with the City Clerk; and (6) any conditions, safeguards, and limitations that the Authority may impose.

9. Filing of Decision: Upon granting or denying a special permit the Special Permit Granting Authority shall forthwith: (1) file a copy of the decision with the Planning Board and City Clerk; (2) mail a certified copy of its decision to the owner, and applicant if other than owner; (3) send a notice of the decision the "parties in interest" and to person who requested a notice of the public hearing; and (4) within fourteen (14) days, file copies of the detailed records of its proceedings with the office of the City Clerk. Each notice shall specify that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act and shall be filed within twenty (20) days after the date of filing of such notice with the City Clerk.

10. Effective Date: A special permit shall not take effect until: (1) the City Clerk certifies on a copy of the decision that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed or denied; (2) the certified decision has been recorded at the owners expense in the applicable registry of deeds, indexed in the grantors index under the name of the record owner, and noted on the owner's certificate of title. If registered property is involved, the decision shall also be filed with the recorder of the Land Court.

11. Expiration of Special Permit: A special permit shall lapse in two (2) years if a substantial use or construction has not begun under the permit by such date except for good cause. This two-year time period shall include such time as may be required to pursue or await the determination of an appeal referred to in Section 17 of the Zoning Act. If a special permit lapses, the proposed use or construction shall require a new appeal to the Special Permit Granting Authority as a new case over which they shall have complete administrative power to approve or deny.

**K. Other Requirements:**

The granting of any appeal, special permit or variance by the Board of Appeals or any special permit by a Special Permit Granting Authority shall not exempt the application from any provision of this Bylaw not specifically ruled upon by such Board or Authority or specifically set forth as exempted in this particular case from a provision of this Bylaw. It shall be unlawful for any owner or person to reconstruct, convert, or alter a structure or change the use, increase the intensity of the use, or extend or displace the use of any building, other structure or lot, or change any required limitations, safeguards or special conditions imposed by the Board or Authority in authorizing a special permit or variance without appeal to the Board or Authority as a new case over which they shall have complete administrative power to deny, approve or modify.

**L. Repetitive Petitions and Withdrawal:**

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or Special Permit Granting Authority shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said Board of Appeals or Special Permit Granting Authority finds, by an unanimous vote of a board of three (3) members, or a vote of four (4) members of a board of 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 given 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 Board of Appeals or Special Permit Granting Authority may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of the public hearing thereon; but thereafter be withdrawn, without prejudice, only with the approval of the Board of Appeals or Special Permit Granting Authority.

**M. Design Review Committee:**

In accordance with the provision of Chapter 40A of the Massachusetts General Laws, a Design Review Committee (DRC) is hereby established. The DRC shall review applications subject to the provisions of Sections VII and XI.C. Further, the DRC shall make recommendations to the Planning Board concerning the conformance of the proposed project to the development and performance standards contained in Section XI.C.

The DRC shall consist of three (3) full members and two (2) associates. Of the three full members, two are required to be registered architects, landscape architects, or persons with equivalent professional training, and one member from the local business community. The two alternates must also be persons with equivalent professional training, with one representing the Amesbury Historical Commission, and will be appointed to two year terms such that the term of

one (1) associate member shall expire each year. All appointments to the DRC shall be made jointly by the Mayor's Office & Planning Board and ratified by the Municipal Council. Additionally, the terms of all full members of the DRC shall be three years, except that when the DRC is originally established, the Municipal Council shall make one of their appointments for a one year term, one two year and the remaining appointment for a three year term.

**N. Planning Board Associate Members:**

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 9, two (2) positions for associate members of the Planning Board are hereby established. These members may sit on the Board for public hearings when the board has been designated as a Special Permit granting authority. The chairperson of the Planning Board may designate an associate member to sit on the Board for the purposes of acting on a Special Permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board.

Hereafter and as terms expire or vacancies occur, all appointments for associate members shall be made jointly by the Mayor's Office and Planning Board and ratified by the Municipal Council.

The associate members shall be appointed for two (2) year terms such that the term of one associate member shall expire each year.

# SECTION XI

## SPECIAL CONDITIONS

**A.** **General:** In addition to the special conditions set forth in other sections of this Bylaw, the following conditions shall apply for uses permitted by right or by special permit listed in the Table of Use Regulations for the various zoning districts:

**B.1** **Removal of Sand, Gravel, Quarry or Earth Materials:**

1. The removal of sand, gravel, quarry or other earth materials for commercial purposes is prohibited in the City of Amesbury.

2. For the removal of sand, gravel, quarry or other earth materials which is incidental to and in connection with the construction of a building on a lot, the following conditions will govern:

**a.** This regulation shall be deemed not to prohibit the removal of such sod, loam, soil, clay, sand, gravel or stone as may be required to be excavated for the purposes of constructing ways in accordance with lines and grades approved by the Planning Board or a definitive plan approved by the Planning Board or for the purposes of constructing underground utilities.

**b.** Where soil is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Inspector of Buildings. Removal will be allowed only from the area of the building, driveways, parking area, and from areas where removal is specifically required by the Board of Health in connection with disposal systems. Where special circumstances exists requiring general regarding, removal of peat, etc., the builder may file a plan and request for an additional soil removal permit from the Inspector of Buildings as provided below.

**c.** Removal of miscellaneous amounts of earth is permitted provided the removal is necessary for the improvement of the property from which removal takes place and provided the removal is in accord with the expressed intent and purpose of the provisions of this Bylaw. Removal of aggregate quantities of less than 50 cubic yards from any one general site requires no formal permit. Where the removal of soil in quantities in excess of 50 cubic yards but less than 1,000 cubic yards is desired, application must be made to the Inspector of Buildings for a miscellaneous soil removal permit. Where special circumstances exist which require the removal of soil in excess of 1,000 cubic yards, a permit for a larger amount up to 5,000 cubic yards may be issued provided that it additionally has the approval of and bears the signature of the Planning Board. Said action requires a public hearing, subject to all special permit requirements and submission of information requested in this Bylaw, unless a) the proposed development is associated with the construction of permanent structure for primary use on said parcel(s) and has already been permitted by Special Permit or Site Plan Review from the Planning Board, and b) the clearing of land and removal of earth materials is proposed only within the limit of work shown on the approved site plan. Under this exception, the Board shall require the

submission of the following information for review and approval simultaneously with the other permit application(s) to the Board.

i. a soil structural stability report by a registered and professional engineer (P.E.)

ii. engineering details specifying the construction of the proposed structures, parking areas, roadways, stormwater control, retaining walls, site cross-sections at every 50 feet intervals, engineered slopes and any other details associated with the proposed development.

iii. a stormwater management plan, showing structural Best Management Practices (BMP) to be employed on the project site, and runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands or similar systems covered with natural vegetation. Runoff shall not be discharged directly to rivers, streams, or other surface water bodies, and

iv. an erosion and sedimentation control plan at a scale of 1" = 40'. This plan shall include BMPs for erosion and sediment control (vegetative and/or structural) to prevent surface water from eroding cut and fill side slopes, road shoulders and other areas and measures to avoid sedimentation of nearby wetlands, rivers, ponds, streams or other surface water bodies. 2009-060

*The permit shall indicate the approximate quantity of soil to be removed, the purpose of the removal, and the location of the site of removal. The permit shall also specify that upon completion of excavation, exposed subsoil shall be graded and covered with loam to a minimum depth of six (6) inches and that the removal is to be controlled by the appropriate criteria as may be required by the Planning Board. Except where removal under this paragraph is done in connection with the formation or enlargement of a pond, excavation shall not be permitted below the mean grade of the street or road serving the property. The excavation in any case shall not be such as to change the direction of flow of a water course or to cause surface water to gather as a sump or swale. Pits for burying large rocks and stumps shall be immediately backfilled for safety reasons. Failure to meet the requirements of this paragraph shall be deemed a violation of the Zoning Bylaw.*

**B.2 Earth Filling:**

**1. Intent:** The movement, transport, alteration, redistribution, or filling with any earth material in the aggregate volume of 1,000 cubic yards or 1,500 tons or greater and specifically associated with any property in the City of Amesbury shall require a Special Permit in accordance with this Earth Filling Regulation.

**2. Purpose:** The purpose of this Earth Filling Regulation is to regulate earth filling operations for the protection of human health, public safety, welfare, and the integrity of natural resources in the City of Amesbury.

**3. Definitions Specific to this Regulation:**

a Earth Material: Any geologic, manmade, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, peat, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete. Material meeting the definition of solid or

hazardous waster, or as a toxic, infectious, radioactive, corrosive, or reactive material or waste by Federal or State statutes is specifically excluded.

b. Fill Material: Import, use, redistribution, alteration or movement of earth materials on or within any land area or water body.

c. Significantly Greater Concentration: The concentration of a substance in earth or fill materials as measured by Federal or State-approved analytical methods, which is one order of magnitude or greater in concentration than the same substance measured in existing, pre-fill earth materials.

4. **Regulated Activities and Uses:** Unless otherwise prohibited or exempted by this Regulation, regulated activities requiring a Special Permit shall include the following:

a. Import operations of greater than 1,000 cubic yards or 1,500 tons of earth material to any location in the City of Amesbury in the aggregate.

b The filling, restoration, or alteration of existing earth material excavation areas or borrow pits having a total surface area greater than 20,000 square feet.

5. **Prohibited Activities and Uses:**

a. Use of any imported fill materials whose quality would meet a Federal or State criteria for definition as being toxic, reactive, radioactive, corrosive, explosive, hazardous, infectious, oil-impacted, or as a hazardous or solid waste.

b. Use of earth materials containing toxic, reactive, corrosive, hazardous, infectious, or solid waste at individual concentrations, or presence by weight or volume, which would render such material a regulated substance or material subject to Massachusetts General Laws, Chapter 21E or as a Solid Waste pursuant to 310 Code of Massachusetts Regulations (CMR) 19.00, unless such activity and use was specifically permitted or licensed as a duly authorized action related to either of these regulations, and such license remains in full force and effect at the time of such activity or use.

c. Use of fill materials at any location not otherwise regulated or permitted for acceptance of earth materials containing toxic, reactive, radioactive, corrosive, hazardous, infectious, oil, solid waste, or metals when such fill materials contain concentrations of these substances less than regulatory criteria established for reporting or special handling purposes but with one or more significantly greater concentrations by weight or volume than existing, pre-fill concentrations.

d. The use of fill material at aggregate quantities greater than 1,000 cubic yards or equivalent of 1,500 tons without a Special Permit pursuant to this Regulation.

e. Transport of earth materials in a manner which is prone to release earth materials during transport.

f. Use of fill materials in a manner which renders the fill area structurally unstable, produces uncontrolled leachate or off-gases, creates nuisance conditions, creates uncontrolled storm water run off, siltation, or visually apparent erosion of fill materials, or where finished fill grading slopes are greater than 15 percent, or greater than 5 feet in elevation above surrounding and undisturbed maximum grade elevations as shown on the Soil Management Plan. An exception to the grading of slopes greater than 15 percent, or fill slopes greater than 5 feet in elevation shall be made if the limit of work associated with a permitted permanent structure as approved by the Planning Board includes the area of fill and provided the application is accompanied with the following:
i. a soil structural stability report by a registered and professional engineer (P.E.)
ii. engineering details specifying the construction of the proposed structures, parking areas, roadways, stormwater control, retaining walls, site cross-sections at every 50 feet intervals, engineered slopes and any other details associated with the proposed development.
iii. a stormwater management plan, showing structural Best Management Practices (BMP) to be employed on the project site, and runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands or similar systems covered with natural vegetation. Runoff shall not be discharged directly to rivers, streams, or other surface water bodies.
iv. an erosion and sedimentation control plan at a scale of 1" = 40'. This plan shall include BMPs for erosion and sediment control (vegetative and/or structural) to prevent surface water from eroding cut and fill side slopes, road shoulders and other areas and measures to avoid sedimentation of nearby wetlands, ponds, rivers, streams, or other surface water bodies, and
v. a plan showing finished grade elevation such that it is no more than three (3) feet above the undisturbed average grade elevation along the frontage of the property and within the front yard setback.

g. No filling operations or transport subject to this regulation is allowed without the prior written consent of the Planning Board, and Police Department for acceptable hours of operation, truck transport, routes of travel, road safety and site security procedures.

h. Construction of permanent structures over or adjacent to areas of fill unless the fill material is structurally stable and free of emissions or other hazardous criteria relative to permanent building construction and use.

i. Use of fill material which may cause chemical or physical impact to off-site ground water, surface water, or wetland resource areas without specific Soil Management Plan and field procedures designed to prevent degradation of these natural resources. This prohibited use specifically includes, but is not limited to, fill materials containing nutrient or salt concentrations at significantly greater concentrations than existing pre-

fill concentrations, or containing greater than ten (10) percent total organic carbon.

6. **Exemptions for Special Permit Requirements or Use Prohibitions**

Use of earth materials whose quality would not otherwise trigger the need for a Special Permit or is not prohibited by this Regulation as fill where the total volume is less that 1,000 cubic yards or 1,500 tons, in the aggregate, for a particular location. Contiguous parcels under the same ownership or right of operation shall be considered one location for the purpose of this bylaw.

7. **Special Permit Application Requirements**

Written application for a Special Permit shall be made to Amesbury's Planning Board and accompanied by ten (10) copies of a written statement describing the proposed regulated activity, together with the following information:

a. A Soil Management Plan signed and stamped by a Massachusetts Licensed Site Professional (LSP). The LSP shall specifically state that "The subject plan has been designed to meet the requirements of Amesbury's Earth Filling Regulation, and any other applicable Federal or State regulation pertaining to the transport and use of earth materials for fill. It is my professional opinion that this plan and the proposed regulated activity, once executed and completed, will be substantially protective of human health, public safety, welfare and the environment".

The Soil Management Plan must contain sufficient detail to document that requirements of this Earth Filling Regulation will be met. The plan shall specifically require that Massachusetts Contingency Plan Bill of Lading documents and procedures (310 CMR 40.0030) will be exclusively used for the transport and acceptance of earth materials for fill. Each Bill of Lading document shall be accompanied by a signed and dated letter from an LSP which specifies: 1.) the point of earth material origin and receiving location for fill material; 2.) that the earth material is not otherwise prohibited from use as fill material in accordance with Amesbury's Earth Filling Regulation or other applicable Federal and State standards, regulations, and guidelines; and, 3.) that the LSP has compared analytical results of earth materials to existing, pre-fill conditions specific to the fill location and determined that the concentrations of substances in the earth materials intended for use as fill do not contain significantly greater concentrations than existing, pre-fill conditions for that location. The LSP shall perform site inspections during the course of the project to ensure compliance to the Soil Management Plan and shall upon completion of work provide written certification signed and stamped stating that all earth materials used for fill comply with Amesbury's Earth Filling Regulation and applicable Federal and State Regulations.

The original signed and stamped copy of the Soil Management Plan will be provided to Amesbury's Planning Board prior to initiation of fill operations. No fill operations are to commence until a letter indicating receipt and acceptance of the Soil Management Plan has been issued to the applicant by the Planning Board. The Planning Board will seek comment on the plan from appropriate

Departments within the City of Amesbury and hold a public hearing prior to issuance of the Soil Management Plan acceptance letter. Acceptance of the Plan will not constitute endorsement by the Planning Board, the City of Amesbury, or it's agents and the applicant will remain fully responsible for ensuring that requirements of this Earth Filling Regulation, the Soil Management Plan, and any other applicable Federal and State standards, regulations or guidelines are satisfied. Copies of Bill of Lading documents and required LSP letters are to be provided to Amesbury's Planning Board by the end of each week of active operation. Failure to provide these records on a weekly basis will result in suspension of fill operations.

The Soil Management Plan should specifically include the following, at a minimum:

A. Summary of environmental pre-fill characterization findings and sample locations;
B. Verification of Fill Material Origin and Acceptance Procedures;
C. Record Keeping Practices;
D. Site Security, Fill Operation Inspection, and Site Control;
E. Transport Routes, Times, and Duration of Anticipated Fill Activities;
F. Qualifications of Applicant Personnel Responsible for adhering to the Soil Management Plan and Amesbury's Earth Filling Regulation;
G. Erosion, Dust, and Storm Water Controls, Inspection and Maintenance;
H. Quality Assurance/Quality Control Procedures;
I. Emergency Response and Notification Procedures, including pertinent telephone numbers and contact individuals/firms;
J. Total proposed Fill Material volume;
K. Daily Personnel Responsibilities and Operation Management Procedures;
L. Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during the fill operations; and
M. Revegetation, Erosion and Leachate Control, Monitoring and Maintenance Plan;
N. A list of Federal, State or local permits, approvals, licenses, or regulations to which proposed fill activities are also governed or controlled by. Such list shall specify which permits, approvals or licenses have been obtained or will be obtained as a condition of proposed filling activities.
O. Maps depicting the following information:
    1.. Existing grades, elevations, property boundaries, abutters, access points, natural resource features, sensitive receptors, and environmental pre-characterization sample locations.
    2. Process diagrams indicating fill sequence, transport routes, and security measures.
    3. Storm water and erosion control structures and features to be utilized during filling operations.
    4. Final grade plans depicting proposed finish elevations, slopes, storm water and erosion control structures and features.

Note: Map scales should be no more than one hundred (100) feet to the inch and elevation contour intervals should not exceed two (2) feet. Depiction of elevation contours are only required for the area(s) of fill, a 100 foot setback around fill areas, and along abutting property lines which are within 300 feet of fill areas. Three permanent bench marks with elevations marked thereon, and referenced to the National

Geodetic Vertical Datum (NGVD) shall be placed in the field and maintained until a final inspection of filling operations has been completed by the City of Amesbury.

Final Fill Material grades shall conform in contour, slope and elevation to the natural topography of the surrounding area or pre-existing contours as evidenced by historical maps or photographs. Final grading shall incorporate stabilization measures and slopes of no more than fifteen (15) percent to limit erosion, structural failure of Fill Materials, ponding of water, or excessive storm water drainage onto abutting properties.

**8. Conditions of Special Permit**

A special permit shall only be granted for a limited time, and in no case exceeding a period of four (4) years from date of issuance. Special Permits are eligible for renewal following review by the Planning Board of written notice requesting a renewal by applicant. A written renewal request is due to the City of Amesbury six (6) months prior to expiration of the Special Permit.

Unless a changed is approved in writing by Amesbury's Planning Board, the applicant's original Massachusetts Licensed Site Professional is to be maintained for the duration of filling and closure activities.

The Special Permit shall be subject to revocation for violations of this Earth Filling Regulation. Applicant grants unrestricted access to the City of Amesbury, it's agents, and to any Federal or State employee or their respective agents for the purpose of inspection of records or field conditions, and enforcement of this Regulation. The applicant will facilitate one or more off-site inspections at points of origin for earth materials if so requested by the City, Federal or State agencies, or their agents.

**9. Financial Security and Inspection of Conditions**

The applicant may be required to file a bond, as provided for under Amesbury's Zoning Bylaw, or similar financial surety acceptable to the Planning Board, to insure faithful performance of the work to be undertaken pursuant to the conditions of approval or approval with modifications, and conditioned upon completion of the regulated activity in accordance with the conditions established by the Planning Board at the time of granting of the Special Permit or any subsequent changes of such conditions. In it's sole discretion, Amesbury's Planning Board may waive or reduce the financial surety requirements. No such financial surety shall be released, nor shall the applicant be deemed to have complied with the conditions provided for herein, until the applicant has filed with the Planning Board a written certification from the Massachusetts Licensed Site Professional that approved the original Soil Management Plan that said conditions and the Soil Management Plan have been complied with and the Planning Board issues a letter authorizing release of the financial surety. The Planning Board shall act on a requested release of the financial surety within sixty five (65) days of submission of the applicant for such release.

For the purpose of allowing for independent inspection to assess adherence to permit conditions, the applicant will pay the City of Amesbury or it's designated agent, as directed by the Planning Board, a per ton fee of no less than twenty percent (20%) of the dollar or dollar equivalent equity amount paid for each ton of Fill Material received by the applicant. Payment of the independent inspection fee will be made to the City of

Amesbury or its designated agent within one week of receiving Fill Material regardless of whether payment has been received by the Applicant. In no instance, including non payment to Applicant, shall payment to the City of Amesbury or its agent be less than two dollars ($2.00) per ton of Fill Material received at the Special Permit fill location(s). Failure to maintain timely payments for independent inspection shall be sufficient grounds for suspension of the Special Permit. Applicant agrees to maintain and provide access to a complete and up to date set of records at the fill site, and to provide unrestricted access to the fill site by the City or its agents.

10. **Revocation or Suspension**
Any Special Permit issued pursuant to the provisions of this Earth Filling Regulation shall be subject to revocation or suspension as provided for in Amesbury's Zoning Bylaw.

11. **Change of Condition**: The Planning Board may vary or alter any condition provided for in this Earth Filling Regulation, if in its opinion such variance or alteration is in harmony with the purpose and intent of this Earth Filling Regulation.

Any change brought about by the applicant or from activities subject to the Soil Management Plan or Earth Filling Regulation which were not previously incorporated by the applicant or anticipated upon application for Special Permit shall be brought to the attention of the Planning Board or it's agents prior to, or immediately following, said occurrence. This notice shall be in writing and include specific actions recommended by the applicant to correct or to demonstrate compliance with the Special Permit and Earth Filling Regulation. All fill material operations shall be suspended within one operation day following such occurrence and remain suspended until the Planning Board or it's agents have reviewed and amended the Special Permit with the applicants recommended change(s). Nothing herewith shall be interpreted to require acceptance of changed conditions or recommended corrective actions by the Planning Board. (2003-49 11/14/03)

## SECTION XI.C SITE PLAN REVIEW:

1. **INTENT**: These regulations recognize that certain developments of land, though generally suitable for location in a particular zoning district are, because of their nature, size, complexity or other reasons of probable impact, capable of adversely affecting the stated purposes of this Bylaw, unless careful consideration is given to certain critical design elements. It is the intent of these regulations to provide a mechanism for the review of an applicant's attention to such critical design elements within developments that are subject to review.

2. **PURPOSES**:
   a. To promote highway traffic safety and protect the capability of state and local roads to conduct traffic smoothly and efficiently;
   b. To promote attractive and viable commercial, industrial or multi-family development projects;
   c. To protect the character, aesthetic visual qualities and property values of the City and abutting residential districts;
   d. To discourage unlimited commercial "strip development" and curb cuts along highways, and to encourage commercial growth in nodes and clusters;
   e. To allow for the preservation of open space; and the protection of natural features and environmentally sensitive areas.

3. **APPLICABILITY**:
   a. Site Plan Review shall be required where so indicated in Section V.D. Table of Use Regulations. Further, where a special permit is required an approved Site Plan pursuant to XI.C shall be required as a condition of granting said permit.

   b. An applicant for Site Plan Review shall not be issued a building permit and/or occupancy permit unless in conformance with an approved Site Plan or unless the Planning Board has authorized changes to an existing Site Plan and/or facility, including change of uses pursuant to Section XI.C.9.

   c. Reviewable Projects for Design Review. All projects submitted to the Planning Board which are either listed as "Site Plan Required" under the Table of Use Regulations, Section V.D., or a sign application, shall be reviewed by the Design Review Committee and shall be subject to the design standards contained within the Site Plan Review (SPR), Section XI.C. and the Sign Bylaw, Section VII. All applicants are encouraged to contact the DRC within a pre-application hearing for SPR.

4. **PROCEDURE**:
   a. **Submittal Requirement:** An applicant shall file a Building Permit Application with the Building Inspector/Code Enforcement Administrator. If said official determines that a Site Plan Review or special permit with Site Plan Review is required, the applicant shall submit the appropriate application to the Planning Board.

   b. **Pre-application Conference**: Prior to submission of an application it is strongly recommended that the applicant confer with the Planning Board to determine the applicability of the information requirements of this subsection and to obtain other information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data. If the applicant decides to forgo the pre-application for Site Plan Review, the information and materials for review as noted in Sections 5 and 6 shall be required. If the applicant schedules a pre-

application conference the Planning Board suggests that the information provided by the applicant be designed to assist the Planning Board to understand the scope and impact of the project. Said information may include a conceptual drawing of the proposed project indicating general building design, potential locations of curb cuts, parking areas, signs, wetlands, the location and type of surrounding uses and information regarding environmental access or infrastructure issues relevant to the project.

c. **Application for Site Plan Review**

1. **Filing:** An application for Site Plan shall be filed by the current owner of record to the Planning Board on the form provided by the Planning Board, along with application fee(s) which shall be set forth in the Planning Board Regulations.

2. **Required Submittals:** An applicant shall file the Site Plan Review application, required materials for review and other submittals as set forth in the Planning Board regulations with the Planning Board in one (1) original and fourteen (14) copies. The application, Site Plans and all supporting documents shall also be submitted in Portable Document File (PDF) format on Compact Disk (CD).

3. **Application Completeness:** Upon receipt of an application, the Board shall determine if the application is complete, including information and requirements listed under Sections XI.C.5 and XI.C.6. If it is determined that the application is incomplete, the Board shall take no further action on said application. An application which is determined to be incomplete may be revised and resubmitted at a subsequent meeting of the Board.

4. **Circulation to Town Departments and other Boards:** Within seven (7) days of receipt of a complete application, the Board shall transmit a copy to the Design Review Committee, Engineering Department, Board of Health, Building Inspector/Code Enforcement Officer, Fire Department, Police Department, Conservation Commission, Town Planner and Town Clerk for comments. The Boards and Departments herein named shall review the application and report their recommendations in writing to the Board no later than twenty one (21) days after receipt of the application and information required by this subsection.

5. **Public Hearing:** The Planning Board shall hold a public hearing within sixty five (65) days of submission of a completed application for which notice has been given as provided in Section X.J.3 of the Bylaw. The decision of the Board shall be made within ninety (90) days of completion of the public hearing, except where the application has submitted a written request for extension of time.

6. **Peer Review:** The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Site Plan Review application, pursuant to GL chapter 40a Section 53G. Such fees shall be held by the Town of Amesbury in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, civil engineers, landscape and urban designers, traffic engineers and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant forthwith. 2012-032

**5. MATERIALS FOR REVIEW:**

All Site Plans shall be prepared by a registered architect, landscape architect, or professional engineer who shall sign and date a designer's certificate (Form D) as required by the Town's subdivision regulations and place their seal upon all pertinent documents unless this requirement is waived by the Planning Board because of unusually simple circumstances. All original Site Plans shall be prepared on standard 24" x 36" mylar sheets at a minimum scale of 1"=40'. Elevations drawings, where required, shall be drawn at a minimum scale of 1"=8'.

The Planning Board may waive any information requirements it judges to be unnecessary to the review of small scale developments. Said waiver(s) shall be made to the applicant in writing with stated reasons for granting the waiver. The following information shall be included in the Site Plan set:

a. Parcel Information - The location and boundaries of the lot, adjacent public or private ways, total parcel area, frontage, setback boundaries, required open space and parking, other applicable information from Section VI - Dimensional and Density Regulations, easements affecting the use, access and building layout on the parcel, the location and owners names of all adjacent properties.

b. Topography and existing land features - Existing and proposed topography including contours (two foot intervals), the location of wetlands, streams, water bodies, aquifers, aquifer recharge areas, marshes, drainage swales, areas subject to flooding, and unique natural land features, including all trees over eight (8) inches in caliper, and the general location of the tree line. Existing walls, fences, culverts, bridges, recreation trails, land-fills, gravel pits and other significant man-made features,

c. Buildings - Existing and proposed structures, including dimensions, footprint, total gross floor area, number of stories, floor finished elevations and building height(s).

d. Parking & Driveways - The location of parking and loading areas, driveways, access and egress points from existing ways.

e. Sidewalks, bikepaths and recreation trails – walkways between building and parking areas, pedestrian access to and from the site to existing sidewalks and bikepaths.

f. Utilities - The locations and description of all existing and proposed septic systems, sanitary sewer water supply, storm drainage systems (including method and calculations for 10 and 100 year storm events), utilities, and refuse and other waste disposal methods.

g. Grading and Stormwater Drainage – Limit of work, proposed finished elevations, slopes, stabilization measures, storm water and erosion control structures and features.

h. Landscaping - Proposed landscape features including the locations and a description of buffer areas, screening, fencing, and plantings. A planting plan shall be prepared by a registered landscape architect, unless a licensed plant nursery person is deemed appropriate by the Planning Board.

i. Lighting - Existing and proposed lighting, including locations, lighting source, and fixture types. The Planning Board may require photometric analysis of proposed lighting.

j. Signs - The location, dimensions, height, and characteristics of proposed signs.

k. Open Space - The location and description of proposed open space or recreation areas.

l. Traffic Generation - The plan shall describe estimated daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

m. Building Facades and Floor Plans – Architectural elevations of all sides of all new buildings and of those sides of existing buildings which are proposed to be altered; roof plans and floor plans showing existing and/or proposed uses with floor areas for each use. Elevation drawings should indicate exterior material and colors, size and spacing of windows, doors and other openings. 2012-032

**6. ADDITIONAL REVIEW MATERIALS:**

In each case where a new building(s) or a use of more than 15,000square feet total floor area is proposed, the following information shall be required and submitted along with the information and documents required under paragraph 5. If a project requires review under MEPA and issuance of a Certificate on Environmental Notification Form or Environmental Impact Report, a complete information package as required under the MEPA Certificate on ENF of Draft EIR shall also be submitted to the Board. In all other circumstances related to significant environmental or public safety issues or where the proposed intensity of use requires more detailed review, the Planning Board shall require materials or information in paragraph 6 it deems necessary. If not requested at the time of the pre-application conference this information shall be requested not more than 28 days from the date of submission and will not extend the review period, unless mutually agreed.

a. Surface and water pollution - a report on the impact of storm water runoff on adjacent and downstream water bodies, subsurface ground water and water tables.

b. Soils - a report on the potential dangers of erosion and sedimentation caused by the operation and maintenance of the proposed development and the mitigation efforts proposed. To this end, high intensity soil mapping, i.e., test borings and analysis, may be required.

c. General environmental impact - a report on the relationship of the proposed development to the major botanical, zoological, geological, and hydrological resources on the site, and compatibility of the proposed development with adjacent or surrounding land uses and neighborhoods. At the discretion of the Planning Board, an EIS required through the MEPA process which addresses the Planning Board's concerns may be substituted in lieu of this report.

d. Traffic impacts - a report on existing traffic volume, composition, peak hour levels, and existing street capabilities, analysis of existing and resulting level of services (LOS) for:
   1. the nearest and/or most impacted public roadway intersection.
   2. estimated average daily traffic generation composition, peak hour levels.
   3. directional flows resulting from the proposed development.
   4. proposed methods to mitigate the estimated traffic impact.
   5. the methodology and sources used to derive existing data and estimations.

Further, in an instance where the proposed project will result in an intersection level of service below a rating of LOS D, or result in a roadway volume to capacity rating greater than 1.0; then the applicant shall provide detailed plans (including reconstruction concepts), that when implemented would result in an intersection level of service rating of D or better. The Planning Board may engage a traffic consultant to review said report and make its recommendations to the Planning Board thirty (30) days before final action is required.

e. Architectural Drawings: Building elevations, roof plans and other drawings and documentation, architectural elevations of all sides of all new buildings and of those sides of existing buildings which are proposed to be altered in any way. The elevations shall be prepared by a registered architect who shall sign the plan and place his/her seal upon it. The drawings shall be prepared at a minimum scale of 1/8" = 1' and shall show the following:

1. exterior material and colors
2. type and pitch of roofs
3. size and spacing of windows, doors and other openings
4. size, location, colors, and copy of signs affixed to or hanging from the building.
5. the relationship in bulk and height of other existing structure in the vicinity.
6. renderings (or model may be provided at the option of the applicant).
7. cross-sections of the site and buildings.
8. product literature on proposed light fixtures.

f. Legal Documents: Drafts of deeds, easements, agreements and other legal documents, including the following where applicable:
1. deeds of land to be conveyed to the Town for streets or other public purposes;
2. deeds of easement and right-of-way.
3. covenants and any other agreements affecting the use of the site.
4. articles of incorporation of a landowner's association and the by-laws of the association.
5. agreements between the applicant and the Town regarding public improvements or other matters.

g. Additional Information: Certification of the following:

1. any and all actions of the Zoning Board of Appeals relative to the application.
2. assurances from public utility companies that necessary non-municipal utilities will be installed in accordance with plans submitted with the application.
3. a listing of state and federal permits, licenses, and approvals necessary to include an estimated schedule of application and approval. Final actions of said permits shall be filed with the Planning Board as a matter of record.
4. Copies of permits previously issued by local, state and federal agencies, as applicable. 2012-032

**7. SITE PLAN REVIEW CRITERIA:**

a. In reviewing and evaluating the Site Plan, and in making a final determination regarding Site Plan approval, the Planning Board shall consider the following criteria.
1. The Site Plan complies with the Development and Performance Standards contained in Subsection 8.

2. The Site Plan minimizes traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement with the site.
3. The proposed development, to the extent feasible: a) is integrated into the existing landscape; b) minimizes adverse environmental impacts on such features as wetlands, floodplains, and aquifer recharge areas; c) minimizes obstruction of scenic views from publicly accessible locations; d) preserves unique natural or historical features; e) minimizes tree, vegetation and soil removal and grade changes; f) maximizes open space retention; g) screens objectionable features from neighboring properties and roadway; and h) minimizes noise and odors associated with commercial/industrial activities.
4. The architectural design of the proposed development is in harmony with the vernacular architecture of the City.
5. The proposed development is served with adequate water supply and waste disposal systems and will not place excessive demands on City services and infrastructure.
6. The Site Plan shows or includes adequate measures to prevent pollution of surface or groundwater, to minimize erosion and sediments, and to prevent changes in groundwater levels, increased run-off and potential for flooding.

## 8. DEVELOPMENT AND PERFORMANCE STANDARDS

In order to receive Site Plan approval, all projects or uses must demonstrate compliance with the development and performance standards of the Amesbury Department of Public Works and the following criteria:

**a. ACCESS AND TRAFFIC IMPACTS** - Applicants must demonstrate that the project will minimize traffic and safety impacts on City roads.

1. The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:
   a. Access via a common driveway serving adjacent lots or premises.
   b. Access via an existing side street.
   c. Access via a cul-de-sac or loop road shared by adjacent lots or premises.
2. One access driveway per development site that is a lot or a combination of several lots, shall be permitted as a matter of right. Except as noted in Section VIII.G.9, and Section VIII.G.20, the Planning Board may, in certain circumstances, allow more than one driveway as part of the Site Plan Approval process
3. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width.
4. All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
5. The proposed development shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic.
6. In each case where a new building(s) or new use of more than 3,000 square feet total floor area is proposed, or where any proposed enlargement of a building would result in a building have more than 3,000 square feet total floor area, a traffic impact statement shall be prepared containing the following information: **a.** A detailed assessment of the traffic impacts of the proposed project or use on the carrying capacity of any adjacent highway or road(s) and associated intersection. **b.** A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, promoting use of public

transportation, or other appropriate means. **c.** An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

7. Adequate pedestrian and bicycle access shall be provided as follows: a. Sidewalks shall be provided to allow access to adjacent properties and between individual businesses within a development; b. If the property directly abuts a bikeway right-of-way, paved access route to the bikeway shall be provided.

8. The anticipated impacts of a proposed development, and the effects of the proposed mitigation, should be evaluated using standard performance indicators which will include but not be limited to: level-of-service, delay, and volume to capacity ratio, as defined in the Highway Capacity Manual. The adequacy of existing and proposed roadways and intersections should be based on but not limited to: left turn lane guidelines, right turn lane guidelines, traffic signal warrants, and stopping sight distances. The design of all proposed improvements shall take into consideration:
a. The Manual on Uniform Traffic Control Devices (Federal Highway Administration),
b. A Policy on Geometric Design of Highways and Streets (American Association of State Highway and Transportation Officials),
c. Massachusetts Department of Transportation rules and procedures,

9. Regardless of project size or traffic generation, measured sight distances at access/egress locations with public ways for all new developments shall, at a minimum, meet Massachusetts Department of Transportation (MassDOT) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance.

10. Adjacent commercial uses shall share access points and provide connections between parcels so as to minimize curb cuts, driveways, and vehicular turning maneuvers, where appropriate.
11. Internal site circulation shall be designed to accommodate the appropriate design vehicle for the project.
12. Roadway access for new development and redevelopment must be consistent with the functional classification of the road.

**b. PARKING** - Proposed projects or uses must comply with Parking and Off-Street Loading requirements in Section VIII and the following standards: 1. To the extent feasible, parking areas shall be located to the side or rear of the structure, and be shared with adjacent businesses. 2. No parking shall be permitted within the required front yard setback.

**c. LANDSCAPING:**

1. Except for driveways, internal pedestrian walkways, plazas or seating areas, a continuous landscaped buffer, at least ten (10) feet wide, shall be located within the front-yard setback to visually separate parking, loading and other such uses form the public way. Along all parking areas, the buffer strip shall be planted with a year round vegetative landscape screening forming a solid screen at least 42 inches in height. Except where waived by the Board in instances where a vegetative screen is impractical due to topographical conditions on the site, the Board may approve the use of decorative fencing, shade trees, planting beds, or a combination thereof, where appropriate along the front-yard setback. At all street or driveway intersections, trees, shrubs or other planting shall be set back a sufficient distance form such intersections so that they do not present an obstruction to vehicular sight-lines.

2. A continuous landscaped buffer strip between commercial and industrial districts and any residential districts and/or property lines shall be provided consistent with the following: a) for lots 10,000 square feet or less the buffer shall be ten (10) feet; b) for lots 10,001 to 20,000 square feet the buffer shall be fifteen (15) feet; c) for lots over 20,000 square feet the buffer shall be twenty-five (25) feet in width. In particular circumstances where said criteria may be impractical

to apply, given safety, land use, lot shape or historic preservation considerations, the Planning Board may vary the landscape buffer requirements, but in all cases some type of buffer shall be required. The landscape buffer strip shall be measured from the commercial/industrial district line and extend into the commercial/industrial district. The landscape buffer strip shall be of a density to screen ninety percent (90%) of the development in question from view, along the zoning district line in question. Plantings shall be of various approved evergreen species only and shall be planted at an initial height of six (6) feet. Fencing may be allowed in conjunction with plantings. Design and height of said fencing shall be subject to the approval of the Planning Board.

3. Retaining walls shall be allowed as follows:
   a) Within the front yard setback and along public ways: No more that three (3) feet in height from the finished grade of the abutting public way. Only natural stone or pre-cast concrete landscape forms that are similar to natural stone walls shall be allowed.
   b) All other areas or if abutting zoned residential districts: No more that six (6) feet in height. Walls abutting public ways but not within the front yard setback shall be terraced every three (3) feet, except as provided in (c) below.
   c) Only if site conditions require elevation changes of greater than six (6) feet, the Board may allow retaining walls greater than six (6) feet in height towards the rear of the property, provided, i) the retaining walls are terraced at every six (6) feet and ii) landscaped with medium height (no less than 18 inched in height at the time of planting), hardy evergreen shrubs, continuously along the length of the terrace and at each terrace. Terracing will not be required if the top of retaining wall is no more than three (3) feet from the finished grade established along the property frontage.
   d) Retaining walls shall be natural stone, concrete masonry units, or precast concrete landscape forms that are similar to natural stone walls. Vertical cast in place concrete shall not be permitted.

4. See Section VIII-F.16 for the landscaping requirements of all parking areas containing over 20 parking spaces.

5. Exposed storage areas, 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. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

**d. SITE PLAN AND ARCHITECTURAL DESIGN:**

1. Where feasible buildings shall be located away from sensitive areas so as to preserve open space and natural scenic views. Where appropriate large continuous buildings shall be avoided and massing of buildings should be broken or staggered to reflect the historic scale of existing buildings.

2. Where feasible parking areas shall 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. The Planning Board may require alternative studies of parking lot layouts.

3. Building design shall be compatible with the vernacular structure, historic character, and scale of buildings in its surrounding neighborhood. This shall be accomplished through

the use of appropriate building materials, screening, breaks in roof lines, roof forms, wall lines.

4. All proposed projects or uses requiring site plan review shall be reviewed by the Design Review Committee according to the guidelines established in the "*Amesbury Design Guidelines*" manual available at the Building Inspector's Office and Planning Board.

5. All proposed projects or uses within an Historic District shall require a Certificate of Appropriateness from the Historical Commission.

6. Roof top mechanical equipment shall be screened from view by roof forms or other appropriate screening devices.

**e. STORM WATER RUNOFF:**

1. The rate of surface water run-off from the site shall not be increased after construction. If needed to meet this requirement and maximize groundwater recharge, increased run-off from impervious surfaces shall be recharged on site by being diverted to vegetated surfaces for infiltration or through the use of retention ponds. Dry wells shall be used only where other methods are unfeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.

2. Neighboring properties shall not be adversely affected by flooding from excessive run-off.

**f. EROSION CONTROL** - erosion of soil and sedimentation of streams and water bodies shall be minimized using the following erosion practices:

1. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regarding shall be permanently stabilized within six months of occupancy of a structure.

2. During construction, temporary vegetation and/or mulching shall be used to protect exposed area from erosion. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped by using staked hay bales or sedimentation straps.

3. Permanent erosion control and vegetative measures shall be in accordance with the erosion/ sedimentation/vegetative practices recommended by the Soil Conservation Service.

4. All slopes exceeding 15% resulting from site grading shall be either covered with 4 inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or to be stabilized by a retaining wall.

5. Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

**g. WATER QUALITY** - Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drain pipes, reduction of paved areas, reduction of building coverage; or to improve water quality, such as installing grease traps, or gas/oil separators. Where the groundwater elevation is close to

the surface extra site grading precautions may be taken to maintain the protective function of the overburden.

**h. HAZARDOUS MATERIALS AND EXPLOSIVE MATERIALS** The storage, use, transportation, and removal of all hazardous materials and explosive materials shall be consistent with the requirements specified by the Amesbury Fire Department plus all relevant state and federal regulations.

**i. LIGHTING:**

1. The goal of exterior lighting shall be to make development feel safe and identify and accent key elements in the project's design.

2. The maximum height of outdoor lighting luminaries on poles shall not exceed ten (10) feet in pedestrian areas and sixteen (16) feet in all other areas, such height being the vertical distance from the finished grade directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire. Light poles shall be no grater in height than four times the distance to the property line. Luminaries used for roadway lighting, parking lots and for exterior building illumination shall be Dark Sky Certified or Compliant and designed to provide the minimum illumination recommended by the IESNA in the most current edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.

3. Light fixtures shall be located no closer to the property line than four times the mounting height of the fixture. Light levels at the property line shall not exceed 0.1 footcandles (fc) adjacent to non-residential properties and 0.05 fc at residential property boundaries. Lumen cap for projects in residentially zoned districts, C and CBD zoning districts shall not exceed 10,000 per acre and for all other zoning districts shall not exceed 25,000 per acre. The pole heights shall determine the overall spacing of the poles.

4. Lighting poles and structures should be appropriately scaled and styled for the project. Lamp type should be metal halide to provide a natural uniform quality of light. Parking and pedestrian light fixtures should be compatible with the building lighting to provide for a contiguous appearance of the project.

5. Whenever practicable, outdoor lighting installation shall include times, dimmers, and /or motion sensors to reduce overall energy consumption and eliminate unneeded lighting, particularly after 11 p.m.

6. A photometric analysis of site lighting shall be prepared by a registered engineer or a lighting consultant as per requirements of the Amesbury Subdivision Rules and Regulations, as amended.

**j. ENVIRONMENTAL PERFORMANCE STANDARDS:**

1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

2. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire fighting and fire suppression devices and equipment.

3. No activities that emit dangerous radioactivity at any point; no electrical disturbance adversely affecting the operation of any point, or any equipment other than that operation at any point, or any equipment other than that of the creator of such disturbance shall be permitted.

4. No emission of visible smoke of a shade darker than No 1 on the Ringlemann Smoke Chart as published by the U. S. Bureau of Mines shall be permitted.

5. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling at any point, or in no event any emission of any solid or liquid particles in concentration exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted.

6. No discharge, at any point, into a private sewerage system, stream, the ground, or a municipal sewerage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply, or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

7. No vibration which is discernible to the human sense of feeling for three (3) minutes or more in any hour between 7:00 A.M. and 7:00 P.M. or for thirty (30) seconds or more in any hour between 7:00 P.M. to 7:00 A.M. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U. S. Bureau of Mines Bulletin N.442.

8. No emission or odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington, D. C. shall be permitted.

9. No direct or sky-reflected glare, whether from floodlights, or from high temperature processes such as welding shall be permitted.

**k. NOISE:**

1. Excessive noise at unreasonable hours shall be muffled so as not to be objectionable due to volume, frequency, shrillness, or intermittence.

2. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line or district line, whichever is more restrictive of the source:

| Frequency Band(Cycles Per Second) | Sound Pressure Level(Decibel re.0.002 dyne/CM) |
|---|---|
| 20-75 | 65 |
| 75-100 | 54 |
| 150-300 | 47 |
| 300-600 | 41 |

| | |
|---|---|
| 600-1200 | 37 |
| 1200-2400 | 34 |
| 2400-4800 | 31 |
| 4800-10,000 | 28 |

If this sound is not smooth and continuous, the following corrections should be added to each of the actual decibel levels given:

| | | |
|---|---|---|
| a. | Daytime Operation Only | +5 |
| b. | Noise source operations less than 20% of any hour period | +5 |

Note: Only one (1) of above corrections may be applied.

Sound pressure level shall be measured at all major lot lines, at a height of at least four (4) feet above the ground surface. Noises shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 "American Standard Specification for General Purpose Sound Level Meters." The interment shall be set to the A-weight response scale. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Meter for the Physical Measurements of Sound."

3. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timer harvesting, traffic, church bells, emergency warning device, parades, or other similar special circumstances.

4. No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.

**l. WETLANDS** - When wetlands replacement or mitigation is required, a plan and description of proposed measures shall be prepared by a biologist or wetlands scientist.

**m. UTILITIES:**

1. Electric, telephone, cable TV and other such utilities shall be underground from existing roadway utilities.

2. The applicant must demonstrate that the proposed development will not overburden public sewer, water, and other service systems. If sewerage is to be treated on site, the applicant shall submit plans and specifications for said treatment system and shall demonstrate that the system will not negatively impact adjacent properties or aquifer recharge areas.

**n. ROADWAYS AND SIDEWALKS:**

1. All roadways and sidewalk construction within the site shall comply with Section 7-Design Standards and Section 8-Construction Standards of the Amesbury Subdivision Rules and Regulations.

2. All off-site construction on state roadways shall comply with the Department of Massachusetts Highway standards, specifications, or special conditions as applicable.

o. **MARINA OR DOCKING FACILITIES** - For marina or docking facilities the Site Plan criteria shall include the following additional information:

1. A plan of the proposed facility and the location of all boats.
2. A parking plan for the related off-street parking.
3. A plan indicating the shore frontage to be used and any alterations required.
4. Any other docking or mooring facility existing or planned with 75 feet of the outermost edge of the proposed facility.
5. The water storage location of any docks, floats, boats and associated equipment.

**p. Specific Design and Construction Standards:** (2009-060)
The design and construction of stormwater management, erosion control plan, drainage, water and utilities shall comply with Section 7 (Design Standards) and Section 8 (Construction Standards) of the Amesbury Subdivision Rules and Regulations as amended. Low Impact Development strategies for managing stormwater shall be in accordance with standards promulgated by Massachusetts Department of Environmental Protection and any design manuals produced by the Amesbury Department of Public Works.

## 9. MODIFICATION TO THE SITE PLAN

Before approval of a Site Plan, the Planning Board may require the applicant to make modification in the proposed design of the project to ensure that the above criteria are met. Where existing buildings, including non-conforming buildings or uses are being enlarged or altered, an applicant may apply to make changes to the project as allowed below:

a. Minor Change:

1. An applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, expansion or alteration of uses in the existing facility. Such minor changes must be submitted to the Board shown on an existing conditions or approved plan, reflecting the proposed change, and on application forms provided by the Board. The Board may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Board shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk;
2. No building permit and/or occupancy permit shall be issued in any case where a building is to be erected or externally enlarged, except if such addition and/or structure is permitted by right and is under 1,000 square feet gross area and does not abut a residential use. If said building abuts a residential use, the exemption shall be reduced to 500 square feet. No parking, loading, or vehicular service requiring an addition of more that five (5) off-street spaces shall be permitted without an approved Site Plan endorsed by the Planning Board.

b. Major Change.
Those changes deemed by the Board to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot by appropriately characterized as a minor change as described above, shall be processed by the Planning Board as a new application for Site Plan Approval pursuant to the provisions of Section XI.C.

## 10. FINAL ACTION ON SITE PLAN REVIEW

a. The Planning Board shall determine that the following conditions have been fulfilled and shall make recommendations in writing to the Building Inspector or Code Enforcement Officer after considering the following matters:

1. The proposed project is consistent with the purposes set out in paragraph 2.
2. The proposed project has been reviewed and approved by the Planning Board as to its design and architectural consistency regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, materials and color of the features involved and the relation to each feature to similar features of building and structures in the surrounding area.
3. In the case of new construction or additions to existing buildings or structures, the Planning Board shall consider the appropriateness of the size and shape of the buildings or structures both in relation to the land area upon which the building or structure is situated and to the buildings and structures in the vicinity.
4. The protection and enhancement of important existing site features.
5. Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and sight buffers and preservation of views, light and air.
6. Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and to adjacent streets.
7. Adequacy of the arrangement of parking and loading spaces.
8. Adequacy of the methods of disposal of refuse and other wastes.
9. Relationship of structure and open space to the natural landscape and existing buildings.
10. Prevention of pollution of surface and groundwater, soil erosion, increased run-off and flooding.
11. The Planning Board may require dimensional and setback requirements in addition to those required by this Bylaw, in order to address the intent and purposes of Site Plan Review if said additional setbacks do not alter the allowed use, diminish the permitted intensity of use, or cause the applicant to seek additional forms of regulatory relief. The Planning Board shall not consider interior arrangement or architectural features not subject to public view.

b. The Planning Board's final action on Site Plan Review shall consist of either:
1. Approval based on a determination that the proposed project will constitute a suitable development and is in compliance with the criteria and design performance standards set forth in this Bylaw.
2. Approval subject to any Site Plan and design performance conditions, modification and restrictions the Planning Board may deem necessary to ensure the health, safety, and welfare of the community.
3. A written denial of the application for the reasons of an incomplete application.
4. Applicants receiving a denial shall be permitted to resubmit the Site Plan at their discretion.

c. Performance Guarantee

1. The Planning Board may require that the applicant file with the Board, as a condition of approval, a bond or other such surety acceptable, in form and amount, to the Planning Board. This surety is to cover costs of construction such as streets, utilities and other site improvements but not limited to erosion control measures and off-site environmental impacts, which left incomplete or improperly constructed, present a public health and safety hazard or nuisance. Further, a

performance agreement between the applicant and the City will specify the manner is which the on or off-site improvements will be completed and the specific manner and time frame in which the surety will be released.

2. Release of Performance Guarantee
Upon completion of all or a portion of the improvements required by a performance agreement entered under Section XI.10.c.1 of this Bylaw, the applicant may request either partial or full release of his/her bond, bond or other such surety as has been posted by the applicant pursuant to Section XI.10.c.1 by sending a statement of completion and request for release by registered mail to the Planning Board and to the City Clerk. If the Planning Board determines that said construction has been completed, it shall release the interest of the City in such bond or other security and return it to the person who furnished it.

3. Refusal of Release
If the Planning Board determines that said site improvements have not been either fully or adequately completed, it shall specify in a notice sent by registered mail to the applicant and to the City Clerk the details wherein said site improvements fail to comply with the requirements of these Zoning Bylaws.

## 11. ENFORCEMENT

a. Prior to the start of construction an inspection fee shall be submitted in accordance with the schedule established by the Planning Board.

b. Record plans stamped by a professional engineer shall be submitted to the Building Inspector and the Planning Board. Said plans shall be accompanied with a letter certifying that what was constructed is consistent with approved plans and conditions set forth by the Planning Board as part of Site Plan Review.

c. Prior to the granting of an Occupancy Permit, the Planning Board shall certify to the Building Inspector or Code Enforcement Officer that the project has been constructed in accordance with the criteria and design and performance standards herein and that all conditions have been met. To facilitate Planning Board review, the developer shall be required to complete and submit to the Planning Board Form 0 of the Subdivision Rules and Regulations, as applicable.

d. The Planning Board may require the developer to submit all drawings and plans in computer assisted design (CAD) formats. Specific file format shall be .DXF unless otherwise allowed.

## SECTION XI.D CLUSTER RESIDENTIAL SPECIAL PERMIT:

1. **Purpose:**
   a. To promote the more efficient use of land in harmony with its natural features.
   b. To encourage the preservation of valuable open space and maintain the City's traditional character and land use pattern in which small villages contrast with open land.
   c. To protect water bodies and supplies, wetlands, flood plains, agricultural or forestry lands, wildlife, and other natural, cultural or historic resources.
   d. To minimize the total amount of disturbance on the site and preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.
   e. To permit greater flexibility and more attractive, efficient, economical design of residential subdivisions.
   f. To facilitate economical and efficient provision of utilities.
   g. To guide development consistent with the City's Master Plan.
   h. To meet housing needs and to promote diverse and energy efficient housing at a variety of costs.

2. **Applicability:**
   a. The Planning Board may grant a special permit for the construction of a cluster residential development in the following districts: Residential: R-8; R-20; R-40; R-80; and Light Industrial. Additionally, the Planning Board shall follow the design and review procedures of this section for the site plan review requirements in the Rural Cluster (RC) District.

   b. The Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Law, nor oblige the Planning Board to approve a related definitive plan for subdivision, nor reduce any time periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Law.

3. **Application Procedures:**

   a. Pre-application Conference and Determination of Project Density: Applicants are encouraged to submit preliminary plans and materials for review by the Planning Board prior to formal application for a special permit. The applicant may submit a *Sketch Plan* to assist the Planning Board in making a determination regarding the maximum number of dwelling units to be permitted on the tract of land proposed for residential cluster development. The sketch plan shall be drawn at a scale of 1" = 40' and include a "Yield" and "Cluster" plan as follows:

- A "Yield plan" drawn to scale that clearly indicates the number of *buildable residential lots* the applicant believes would be attainable if the site were developed as a conventional subdivision consistent with Amesbury's Subdivision Rules and Regulations. In the instance where the property is within the Light Industrial District, for the purpose of density determination, the minimum lot size shall be 20,000 sq. ft.
- A "Cluster plan" drawn to scale that clearly indicates the *primary* and *secondary* resource areas as defined below. From these two resource areas, the final plan shall clearly indicate the house placement, lots and road layout of the cluster plan.

Both plans shall show the following:

- A north arrow;
- The names and locations of all streets and easements butting or within the proposed site;
- The plans shall indicate the lot size, frontage and setbacks for all lots shown.
- At a minimum, topography of the entire site at two (2) foot contour intervals.

Primary Resource Areas should show the following:

- The location of all wetlands and floodplains shall be included on the plan. The wetlands and flood plains shall be determined by a licensed hydrologist, and/or qualified licensed professional.
- The location of all significant woodlands, treelines, open fields or meadows, rocky outcroppings of ledge or bedrock, public water supply areas, watershed divides, aquifer recharge areas, drainage ways, wildlife habitat and corridor areas and areas of slopes greater than 10%.
- The locations of soil test pits and percolation tests with supporting documentation on test results.

Secondary Resource Areas should show the following:

- The location and description of all significant scenic views, fences and stone walls, roads and trails, recreational areas, historic structures and archeological sites.
- Applicants shall also include a statement indicating the proposed use and ownership of the open space as permitted by this bylaw.

Based on the sketch plans, drawings and any other materials the applicant submits relevant to the tract under consideration, the Planning Board, shall make a determination within 30 days as to the number of conventional lots that can be achieved on the proposed site.

If the proposed area of "common open space" exceeds 60% of the site, the permitted maximum density allowed under the cluster residential special permit shall be the number of conventional lots, as determined by the Planning Board, times 110% percent. If the proposed area of "common open space" exceeds 70% of the site, the permitted maximum density allowed under the cluster residential special permit shall be the number of conventional lots, as determined by the Planning Board, times 120% percent.

For those applicants who chose not to attend the pre-application conference for initial project review and determination of permitted density, the permitted density shall be determined by the Planning Board after it has reviewed the materials submitted in accordance with a Cluster Subdivision Plan listed in 3b, c, and d below. For those applicants who have received a determination of density based on this subsection (3a), the requirement in subsection 3b, relative to the preparation of a Conventional Subdivision Plan shall not be required.

3.b. **Cluster Subdivision Plan**:

a. Application: Applicants for a special permit for a Cluster Residential Development shall submit to the Board ten (10) copies and an original of each of the following:

- An application;
- A preliminary conventional subdivision plan that complies with the Rules and Regulations governing the subdivision of land in Amesbury;
- A cluster residential plan, and a site analysis;
- If the plan involves more than one ownership, each owner of land included on the plan shall be a party to the application, and upon approval subject to its provisions.

b. Cluster Residential Plan: The application for a special permit shall be accompanied by the original copy of the final plan and ten (10) copies and any other data to be submitted and shall contain the following data:

1. It shall be drawn at a scale of one inch equals forty feet, unless another scale is previously requested by the applicant and found suitable by the Board.
2. A professional engineer, a registered architect or a registered landscape architect shall prepare the Site Plan.
3. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
4. A utilities and drainage plan shall be prepared by a registered professional engineer.
5. The scale, date, and north arrow shall be shown.
6. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
7. Easements within the lot and abutting thereon.
8. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings.
9. The total number of dwelling units.
10. The location of existing primary and secondary resources as defined in 3.a and other natural features may be required by the Planning Board.
11. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
12. Percent of building lot coverage.
13. Average height of each building (see definition).
14. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
15. Existing and proposed topographical lines at two (2) foot intervals.
16. The use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space.
17. Number of parking spaces.
18. Height of all buildings, above average finished grade of abutting streets.
19. A landscape plan to include the total square feet of all landscaped and recreational areas, and depiction of plant materials to be used, and the quantity, size, and species of plantings.
20. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as a Cluster Residential Development and that the land is in single or consolidated ownership at the time of final plan application.
21. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

c. Site Analysis: The site analysis shall consist of a drawing or drawings at the same scale as the development plan, indicating the primary and secondary resources as defined in 3.a.

d. Other Materials: In addition to the materials required above and by Section X.J of this Bylaw, the application shall also indicate each land owner's interest in the land to be developed, the form of organization proposed to own and maintain the common open space, the substance of covenants and grants of easements to be imposed upon the use of the land and structures and a development schedule.

e. Review of Other Boards and Agencies: Upon receipt of the application and related plans/analysis, the Board shall within ten (10) days transmit one (1) copy each to the Board of Health, Conservation Commission, City Engineer, Community Development Office, and Fire Department. These boards and agencies shall review said plans and provide recommendations to the Planning Board within thirty-five (35) days.

f. Special Permit Considerations: In addition to the general special permit procedures and findings required in Section X.J, 4 and 5, the Board shall also make the following determinations: the plan complies with the requirements of Section XI.D.4; the plan is superior to a conventional one in preserving open space for conservation or recreation, and in utilizing the natural features of the land; where possible, approximate building sites have been identified and are not located closer than 100 feet to wetlands and waterbodies; lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots; the plan allows more efficient provisions of streets, utilities, and other public services; that it will not have detrimental effects on the abutting neighborhoods and that consideration has been given to recommendations of the Amesbury Open Space & Recreation Plan, Preservation Plan and Overall Master Plan.

4. **Allowable Tract Size**: For each application for a special permit, the applicant must have a tract in single or consolidated ownership at the time of application that is at least five (5) acres. However, the Planning Board may waive this minimum area requirement if the Cluster Development Plan includes an overall density reduction on the property, meets the design objectives and purposes of this section, and utilizes a common access driveway serving up to three (3) dwelling units on the property.

5. **Allowable Uses**: The following principal uses of the lots within the Cluster Residential Development shall be permitted: one-family detached dwellings on separate lots; residential structures with up to four (4) dwelling units, utilizing common wall construction on each lot or within a condominium development; church or other religious purposes; agriculture on parcels greater than five (5) acres; public parks; conservation areas and preserved open spaces; and membership clubs for the exclusive use of the residents of the development. The accessory uses permitted by right of special permit shall be as indicated in Section V.D of this Bylaw.

6. **Dimensional Regulations and Development Standards**: In a Cluster Residential Development, the following shall apply:

a. All buildings shall be limited to 35 feet in height.
b. Detached Structures: In the case of cluster single family detached house lot development, the following dimensions and standards shall apply:

1. Lot Size:

| Zoning District | Minimum Cluster Lot Size |
|---|---|
| R-80 | 10,000 square feet |
| R-40 | 10,000 square feet |
| R-20 | 10,000 square feet |

| | |
|---|---|
| IL | 10,000 square feet |
| RC | 10,000 square feet |

2. Lot Frontage: A cluster lot shall have a minimum frontage of not less than 100 feet. In areas of particular environmental sensitivity, the Planning Board may reduce this requirement up to 50% to protect or enhance the primary and secondary resources as defined in 3.a.
3. Lot Shape: Each cluster lot shall be of a size and shape that shall provide a building site which is in harmony with the natural features of the site. The size and shape of each lot and the location of the building site shall be subject to the approval of the Planning Board.
4. Lot Access: All proposed road construction shall comply to the Subdivision Rules and Regulations. The Planning Board may waive this requirement to allow a "common access driveway", as defined in XI.O, to be used as frontage and access for the lots in order to better protect or enhance the primary and secondary resources as defined in 3.a.
5. Building Site: The building site shall be clearly designated on each cluster lot, and shall be situated as to provide open space for each dwelling unit.
6. Open space on cluster lot: At least 50 percent of a cluster lot shall be open space.
7. Open space: Notwithstanding the requirements of the Massachusetts Stormwater Regulations, all stormwater detention or retention areas steeper than a 6:1 side-slope are excluded from the minimum open space area requirement unless a subsurface infiltration drainage system is used and designed for at least a 10 year storm for all roads and driveways and 2 years for all roof drains provided hydraulic soil groups "A" or "B", as defined by the Soil Conservation Services, are present in the area of proposed infiltration. Note, a drainage area of 6:1 side-slope or lesser may only be utilized in areas where the existing topography and vegetation are consistent in slope, character and scale.
8. Wherever feasible, the minimum width of open land between the limit of work of the cluster development and adjacent property shall be 50 feet except for access to the development.
9. The minimum yard requirements for all lots for single family residences shall be 25 feet for the front and rear yards and 15 feet for each side yard. The Planning Board may waive the front setback to 15 feet to protect or enhance the primary and secondary resources as defined in 3.a.

c. Attached Structures: In the case of a cluster development consisting of attached structures, the following dimensional regulations and development standards shall apply:

1. Distance between structures: The minimum distance between structures shall be 50 feet.
2. Distance between building clusters: Wherever feasible, the minimum width of open land between any building cluster and adjacent property not part of the cluster development shall be 50 feet.
3. Open Space for cluster unit: Each dwelling unit within a multifamily residential structure shall have a minimum of 1,000 square feet of open space for the exclusive use of the unit occupants.
4. Building Site: The building site shall be clearly designated on each cluster lot, and shall be situated as to provide open space for each dwelling unit.
5. Lot Access: All proposed road construction shall comply to the Subdivision Rules and Regulations. The Planning Board may waive this requirement to allow a "common access driveway", as defined in XI.O, to be used as frontage and access for up to four (4) units in a building cluster in order to better protect or enhance the primary and secondary

resources as defined in 3.a. In reviewing the proposed density and layout, the Planning Board may require increased design or construction standards to ensure adequate width, slope or construction of the common access driveway.

6. Open Space on cluster lot: At least 50 percent of a cluster lot shall be open space.

7. Open Space: Notwithstanding the requirements of the Massachusetts Stormwater Regulations, all stormwater detention or retention areas steeper than a 6;1 side-slope are excluded from the minimum open space area requirement unless a subsurface infiltration drainage system is used and designed for at least a 10 year storm for all roads and driveways and 2 years for all roof drains provided hydraulic soil groups "A" or "B", as defined by the Soil Conservation Services, are present in the area of proposed infiltration. Note, a drainage area of 6:1 side-slope or lesser may only be utilized in areas where the existing topography and vegetation are consistent in slope, character and scale.

7. **Improvements**: All streets, drainage, water systems, sewerage, utilities, grading, and other improvements shall be made in accordance with the Rules and Regulations Governing the Subdivision of Land in the City of Amesbury. In accordance with the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the City of Amesbury, the Planning Board may require a performance bond for the proper installation of all improvements.

8. **Design Requirements**: In a residential cluster development and in the Rural Cluster District, the following shall apply:

a. The open space shall be planned as single, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100 feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas.

b. Open space areas shall be designed to protect or enhance the primary and secondary resources as defined in 3.a.

c. Where the proposed development abuts or includes a body of water or a wetland, these areas and the buffer to such areas shall be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.

d. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.

e. Open space shall be provided with adequate access, by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development.

f. Development along existing scenic roads and creation of new driveway openings on existing regional roadways shall be minimized.

g. Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections should be provided where appropriate.

9. **Common Open Space**: In a residential cluster development and in the Rural Cluster District, the following shall apply:

a. All land within the cluster tract as defined in Section XI.D.4, which is not covered by buildings, roads, walkways, parking areas or service areas, or which is not set aside as private yards in cluster lots or is required open space for cluster units, shall be set aside and preserved as common open space.

b. The area of common open space shall equal at least 50 percent of the tract, except in the Rural Cluster and R-8 Districts, the required common open space shall equal 70 percent of the tract. No more than 50 percent of the common open space shall be situated within the Wetlands and Floodplain Protection District or contain other wetland resources.

c. The common 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 of the residents of the tract.

d. Provisions shall be made so that the common open space shall be owned in common by and readily accessible to the owners of all lots or units in the cluster development or by a corporation, nonprofit organization, or trust whose members are all owners of the lots or units, or by the City, or otherwise as the Planning Board may direct.

e. In no instance shall the area of the common open space be less than the square footage of the areas by which the lots are reduced below the minimum lot area required for conventional development.

f. The open land, and such other facilities as may be held in common, shall be conveyed to one of the following as determined by the Planning Board, subject to the following guidelines:

1. In general, natural resources land such as wetlands not suitable for any residential use or use or suitable for extensive public recreational use, should be conveyed to the City or to a trust, the principal purpose of which is the conservation of open space; whereas land which will be principally used by the residents of the cluster should be conveyed to a homes association. In addition, the Planning Board may determine that the use of the open space is required for an overriding public need, such as public recreational purposes shall be made at the time the special permit is issued.

g. In order to ensure that the corporation, nonprofit organization or trust will properly maintain the common open space, an instrument(s) shall be recorded at the Essex County District Registry of Deeds which shall as minimum provide:

1. A legal description of the common open space.
2. A statement of the purpose for which the common open space is intended to be used and the restrictions on its use and alienation.
3. The type and name of the corporation, nonprofit organization, or trust which will own, manage and maintain the common open space.
4. The ownership or beneficial interest in the corporation, nonprofit organization or trust of each owner of a dwelling in the cluster development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom.
5. Provisions for the number, term of office, and the manner of election to office, removal from office, and the filling of vacancies in the office of directors and/ or officers of the corporation or nonprofit organization or trustees of the trust.
6. Procedures for the conduct of the affairs and business of the corporation, nonprofit organization or trust including provisions for calling and holding of meetings of members and directors and/or officers of the corporation or non-profit organization or beneficiaries and trustees of the trust and provision for quorum and voting requirements for action to be taken. Each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation, nonprofit organizations or trust.
7. Provision for the management, maintenance, operation, improvement and repair of the common open space and facilities thereon, including provisions of obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the common open space, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation, nonprofit organization or trust, and that each dwelling owner's share of the

common charge shall be a lien against his real estate in the PRD, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record.

8. The method by which such instrument or instruments may be amended.

10. **Additional Requirements**: In a residential cluster development and in the Rural Cluster District, the following shall apply:

a. Unless allowed by the Planning Board, all accessory uses such as the parking of automobiles shall not be permitted in those areas designated as common open space.

b. No cluster lot or area designated as common open space shown on a plan for which a permit is granted under this section may be further subdivided for the purposes of residential construction, and a notation to this effect shall be shown on the plan.

c. Except in the Rural Cluster District, no certificate of occupancy shall be issued by the Building Inspector until he has certified to the Planning Board that the premises have been built in accordance with the plan approved by the Board hereunder.

d. Except insofar as the subdivision is given five (5) years protection under M.G.L, Chapter 40A, S.6, the special permits granted under this section shall lapse within two (2) years.

e. Each unit shall have separate entrances and the Board may impose other conditions, safeguards, limitations on time and use pursuant to its regulations.

f. Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents and/or the public. Where appropriate, multiple use of open space is encouraged. At least half of the required open space may be required by the Planning Board to be left in a natural state. The Planning Board shall have the authority to approve or disapprove particular uses proposed for the open space.

g. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the subdivision.

h. Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking.

i. Accessory recreation uses in the common open space are subject to all applicable requirements and regulations of the City of Amesbury Zoning Bylaw. In the event that an accessory use is proposed after the granting of a special permit for Cluster Residential Development, the proposed accessory use shall require a special permit from the Planning Board.

11. **Severability**: If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the City's zoning bylaw.

## SECTION XI.E Planned Industrial Development -Special Permit:

1. **Purpose**: To provide land for: manufacturing or service industrial purposes in an Industrial District (I); or to provide land for a mix of light manufacturing and commercial uses in the Office Park District (OP). In addition, PID developments encourage reduced traffic impacts through shared access and parking facilities, regulate land use compatibility, and discourage conventional strip developments along our community streets. Moreover, PID should provide a land use pattern to accommodate a variety of uses, and to allow for the preservation of open space, the protection of natural and architectural features and other environmentally sensitive areas.

2. **Applicability**: The Planning Board may grant a Special Permit for a Planned Industrial Development (PID) in an Industrial or Office Park district only. The granting of a Special Permit for a Planned Industrial Development shall also constitute approval and compliance with all Site Plan Review requirements.

3. **Procedural Requirements**: The following requirements shall be in addition to the general requirements for a Special Permit specified in Section X.J. of this Bylaw.

a. **Pre-Application Conference**: To promote better communication and to avoid misunderstanding, applicants are encouraged to submit preliminary materials for review by the Board prior to formal application. Preliminary subdivision plans, if any, should be submitted to the Planning Board prior to the application for a Special Permit. Such preliminary subdivision plans shall be submitted and comply with the Rules and Regulations governing the Subdivision of Land in the City of Amesbury.

b. **Application**: Applicants for a Special Permit for a PID shall submit to the Planning Board ten (10) copies of the following: an application and the development plan in accordance with Section 3c. If the plan involves more than one (1) ownership, each owner of land included in the plan shall be a party to the application, and upon approval, subject to its provisions.

c. **Development Plan**:

1. It shall be drawn at a scale of one (1) inch equals forty (40) feet, unless another scale is previously requested and found suitable by the Board.
2. The scale, date and north arrow shall be shown.
3. Lot number, dimensions of lot in feet, size of lot in square feet; and width of abutting streets and ways shall be shown.
4. Easements within the lot and abutting thereon.
5. A professional engineer, registered architect or registered landscape architect shall prepare the Site Plan.
6. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
7. A utilities and drainage plan shall be prepared by a professional engineer.
8. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required.
9. The total number of establishments and/or dwelling units.

10. The location of existing wetlands, water bodies, wells, one-hundred year floodplain elevation and other natural features requested by the Planning Board during the preliminary plan review phase.
11. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
12. Percent of building lot coverage.
13. Average height of each building (see definition).
14. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
15. Existing and proposed topographical lines at two-foot intervals.
16. The use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space.
17. Numbering of parking spaces.
18. Height of all buildings above average finished grade of abutting streets.
19. A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of all materials to be used, and the quantity, size, and species of plantings.
20. Deed or other recorded instrument that shows the applicant to be the owner under the option of the land to be designated as a PID and that the land is in single or consolidated ownership at the time of final plan applications.
21. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution of surface water or ground water, soil erosion, increased runoff and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

d. **Other Material**: In addition to the materials required above and by Section X.J of this Bylaw, the application materials shall also indicate each landowner's interest in the land to be developed and the substance of, if any, covenants and grants of easements to be imposed upon the use of land and structures and a development schedule.

e. **Review of Other Boards and Agencies**: Upon receipt of the application and related plans/analyses, the Board shall within ten (10) days transmit one (1) copy each to the Design Review Committee, City Planner, Utilities Director, Department of Public Works, Building Inspector, Board of Health, Conservation Commission, Fire Department, City Engineer, and Building Inspector. These boards and agencies shall review said plans and provide recommendations to the Board within 35 days.

f. **Board Considerations**: In addition to the general permit findings required in Section X.J.5, the Planning Board shall also make the following determinations: **1)** that the plan complies with the requirements of Section XI.E.4; **2)** that the plan provides the opportunity for a variety of industrial and/or commercial uses and enhances the overall size and character of the development; **3)** that the plan is superior to a conventional plan in preserving and protecting the natural and cultural features of the site; **4)** that the plan allows more efficient provision and/or use of streets, utilities, and other public services, and does not constitute a health or safety hazard; **5)** that consideration has been given to the Amesbury Site Plan Approval process and requirements and the Amesbury Master Plan.

4. **Requirements**: A Planned Industrial Development Special Permit shall conform to the following:

a. **Minimum Tract Size**: For each application for a Special Permit the tract in single or consolidated ownership at the time of application shall be at least twenty (20) acres and shall be subject to approval by the Planning Board under the Subdivision Control Law.

b. **Allowable Uses**: For a PID in the Industrial District, all uses allowed in the Industrial District as indicated in Section V Table of Use Regulations are permitted. For a PID in the Office Park District, all uses allowed in the Office Park District as indicated in Section V Table of Use Regulations are permitted. Note, all approved PIDs shall be served by a public water system.

5. **Dimensional Regulations**:

a. Unless increased by the Planning Board to fifty (50) feet, all buildings shall be limited to forty (40) feet in height.
b. Minimum width of open land between any lot and adjacent property not part of the Planned Industrial Development (PID) shall be 50 feet, and between each building in the PID a minimum of 40 feet. A PID is not permitted within the Elm St. Overlay District. However, property within the Overlay District may be used to calculate the minimum tract size required for a PID. Further, a building setback of at least 25 feet shall be required from the front lot line.
c. Each building lot shall contain a site which, subject to the approval of the Utility Director, shall be suitable for connection to the City sewer system.
d. Each lot shall be of a size and shape that shall provide a building site which is in harmony with the natural features of the site and provides adequate access to public safety vehicles. The size and shape of each lot and location of the building site and parking areas shall be subject to the approval of the Planning Board.
e. Unless reduced by the Planning Board to minimum of 30%, at least 40% of the total tract area shall be set aside and maintained as permanent open space. Under no circumstances shall the open space be built upon, or used for parking or auxiliary business purposes.
f. Unless increased by the Planning Board to 50%, the maximum building area shall be 40%.
g. The required frontage required is one hundred and fifty (150) feet.

6. Improvements: All streets, drainage, water systems, sewerage, utilities, grading, and other improvements shall be made in accordance with the Rules and Regulations governing the Subdivision of Land in the City of Amesbury. In accordance with the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land in the City of Amesbury, the Planning Board shall require a performance guarantee for the proper installation of all improvements.

7. Parking Requirements: All parking requirements shall be met off street and in accordance with the criteria established in this Bylaw.

## SECTION XI.F Home Occupation - Special Permit:

For the use of a dwelling in any "R" District or a home occupation, provided:

1. No more than one nonresident shall be employed therein.

2. The use is carried on strictly within the principal building.

3. Not more than 40% of the existing net floor area, not to exceed 400 square feet, is devoted to such use.

4. There shall be no display of goods or wares visible from the street.

5. No advertising on the premises other than a small non-electric sign not to exceed two (2) square feet in area and carrying only the occupants name and his occupation, such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist, and similar occupations or professions.

6. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.

7. Any such building shall include no feature of design not customary in buildings for residential use.

8. Such uses as clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.

## SECTION XI.G Environmental Performance Standards:

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any objectionable product, hazard, or any form of environmental pollution that would in any amount affect adversely the surrounding environment. The following standards shall apply:

1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
2. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire fighting and fire suppression devices and equipment.
3. No activities that emit dangerous radioactivity at any point; no electrical disturbance adversely affecting the operation at any point, or any equipment other than that of the creator of such disturbance shall be permitted.
4. No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U. S. Bureau of Mines shall be permitted.
5. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling at any point, or in no event any emission of any solid or liquid particles in concentration exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted.
6. No discharge, at any point, into a private sewerage system, stream, the ground, or a municipal sewerage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply, or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or inset shall be permitted.
7. No vibration which is discernible to the human sense of feeling for three (3) minutes or more in any hour between 7:00 A.M. and 7:00 P.M. or for thirty (30) seconds or more in any hour between 7:00 P.M. and 7:00 A.M. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U. S. Bureau of Mines Bulletin No. 442.

8. Maximum permissible sound pressure levels at specified points of measurement for noise radiated continuously from a facility between 10:00 P.M. and 7:00 A.M. shall be as follows:

| Frequency Band (Cycles per second) | Sound Pressure Level (Decibel re. 0.0002 dyne/GM2) |
|---|---|
| 20-75 | 65 |
| 75-100 | 54 |
| 150-300 | 47 |
| 300-600 | 41 |
| 600-1200 | 37 |
| 1200-2400 | 34 |
| 2400-4800 | 31 |
| 4800-10,000 | 28 |

If this sound is not smooth and continuous, the following corrections should be added to each of the actual decibel levels given:

a. Daytime Operation Only +5
b. Noise source operations less than 20% of any hour period +5
*Only one (1) of the above corrections may be applied.*

9. No emission or odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc. of Washington, D C. shall be permitted.

10. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted.

## SECTION XI.H1 PLANNED UNIT DEVELOPMENT (PUD) BY SPECIAL PERMIT:

1. **Authority to Grant Permits**: The Planning Board may grant a special permit for the construction of a Planned Unit Development (PUD) in the following districts: Central Business District, Central Industrial District and R-8. The special permit shall conform to this title and to Chapter 40A, Section 9, General Laws, and to regulations which the Planning Board shall adopt for carrying out its requirements under this title.

2. **Applicability**: The requirements of Section XI.H shall apply only to applications for special permits for PUD, provided, however, that Section XI.H.16, XI.H.18 and XI.H.19 shall also apply to permits for Planned Unit Development (PUD) Districts shown on the Zoning Map. Planned Unit Development (PUD) Districts shown on the Zoning Map shall conform in all respects to any other pertinent sections of the Zoning Bylaw.

3. **Purpose**: The purpose of the PUD special permit is to:
   a. Provide a mixture of land usage within the City of Amesbury;
   b. Allow greater density and intensity of residential development than would normally be allowed provided that the land usage can be shown to be in the public good;
   c. Encourage historic preservation, infill development and adaptive re-use of historic structures in applicable zoning districts;
   d. Promote affordable housing in new residential developments;
   e. Preserve, promote and encourage use of public and private open space;
   f. Improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment;
   g. Encourage developments that provide parking for general public use on a sharing basis, and;
   h. Guide development consistent with the City's current Master Plan and Historic Preservation Plan.

4. **Procedure**:
   a. Pre-application Conference: Prior to the submission of an application for a special permit, the applicant should confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

   b. The applicant may file a preliminary plan accompanied by the form entitled "Submission of Preliminary Plan - Planned Unit Development" to the Planning Board. Applicant shall include any administrative fee in accordance with the schedule established by the Planning Board. The Planning Board shall upon receipt of the complete preliminary application and supporting documents, and within twenty (20) days from the pre-application presentation at a regularly scheduled meeting, review and determine whether the proposed project is consistent with the development of the City. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of the final plan. If the Planning Board fails to act within forth-five (45) days of receipt of a complete preliminary plan and application, the applicant may proceed to file a final plan.

5. **Final Application**: The application for Planned Unit Development (PUD) special permit shall be made in accordance with section XI.C.4.c. of the Amesbury Zoning Bylaw. All costs of notification shall be borne by the petitioner.

6. **Materials for Review - Preliminary Plan Contents:**
The contents of a preliminary plan for a PUD shall contain:

i. Project boundaries, north arrow, date, scale, legend, and title (Preliminary Plan: Planned Unit Development), the name or names of applicants and engineer or designer.
ii. Names of all abutters, land uses, and approximate location and width of all adjacent streets.
iii. Show the existing and proposed lines of streets, ways, easements and of any public areas within or next to the project.
iv. The approximate boundary lines of existing and proposed lots with approximate areas and dimensions.
v. Indicate the proposed system of drainage, including adjacent existing natural waterways and the topography of the land.
vi. Show the existing and proposed buildings, significant structures and proposed open space on the project site, and include adjacent buildings and their actual use.
vii. An analysis of the natural features of the site, including wetlands, flood plains, slopes over 10%, soil conditions and other features requested by the Planning Board or required by the regulations of the Planning Board.
viii. A description of the neighborhood in which the tract lies, including utilities and other public facilities and the general impact of the proposed project upon them.
ix. A summary of environmental concerns relating to the project.

7. **Materials for Review - Final Plan Contents:**

The final plan shall show the following information and met the following requirements:

i. It shall be drawn at a scale of one (1) inch equals forty (40) feet, unless another scale is previously requested and found suitable by the Planning Board.
ii. A professional engineer, registered architect, or registered landscape architect shall prepare the Site Plan.
iii. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
iv. A utilities and drainage plan shall be prepared by a professional engineer.
v. The scale, date, and north arrow shall be shown.
vi. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting street and ways.
vii. Easements within the lot and abutting thereon.
viii. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required.
ix. The total number of establishments and/or dwelling units.
x. The location of existing wetlands, water bodies, wells, one-hundred-year Floodplain elevation and other natural features requested by the Board of Appeals during the preliminary plan review phase.
xi. The distance of existing and proposed buildings from the lot lines and the distance between the buildings on the same lot.
xii. Percent of building lot coverage.
xiii. Average height of each building (see definition).
xiv. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
xv. Existing and proposed topographical lines at two-foot intervals.
xvi. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
xvii. Number of parking spaces.
xviii. Height of all buildings, above average finished grade of the abutting streets.

xix. A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, and species of plantings.

xx. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as a PUD and that the land is in single or consolidated ownership at the time of final plan application.

xxi. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution to surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

8. **Special Permit Approval:**

a. Approval of a special permit for a Planned Unit Development shall require a two-thirds vote of the Planning Board and should have received Site Plan Approval

b. Approval of a special permit for a Planned Unit Development shall also constitute approval and compliance with all Site Plan Review requirements under Section XI.C.

9. **Denial of Special Permit:** If the special permit is denied, the developer shall not submit substantially the same petition for two (2) years, except as provided under MGL, Ch 40A, Section 16.

10. **Term of Special Permit**: Special permits granted under this chapter shall lapse within two (2) years, excluding the time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use has not commenced sooner or if construction has not started. The Planning Board may grant an extension, after a due process hearing, for good cause, and shall grant an extension if delay has been caused by the need to seek other permits.

11. **Issue of Building Permit**: No building permit shall be issued until the plan, signed by the City Clerk, is recorded in the Registry of Deeds.

12. **Changes from Recorded Plan:** No construction or reconstruction except as shown on the recorded plan shall occur without a further submission of plans to the Planning Board and a notation to this effect shall appear upon the recorded plan and upon any deeds to any property within the Planned Unit Development.

13. **Conditions for Approval**: The plan shall be subject to the following conditions and the Planning Board shall make a determination that the project meets all the requirements of Chapter 40A, Section 9, General Laws, and all the following conditions:

a. The Planned Unit Development is consistent with the purposes set out in paragraph H.3.

b. The PUD has been reviewed and approved by the Planning Board as to its design and architectural consistency. Further, the Planning Board shall consider and make recommendations regarding, among other things, the architectural value and significance of the site, building, or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Planning Board shall consider the appropriateness of the size and shape of the buildings or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity. Further, the Planning Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this title. The Planning Board shall not consider interior arrangements or architectural features not subject to public view.

c. The PUD contains at least one (1) unit for every eight (8) proposed units or 15%, whichever is greater, as affordable housing units deeded to meet M.G.L., Chapter 40B, Section 20 requirements. Such units shall be affordable in perpetuity.

14.1 **Permitted Uses**: In the PUD, the following uses are permitted:

a. Residential (CBD, ICZD & R-8)

i. Except in free standing residential structures, all residential use shall be only above the ground floor;
ii. Residential uses on the same floor as a commercial use are prohibited;
iii. Attached dwelling units shall not exceed four units per structure.

b. Business (CBD & ICZD)
Restaurants, theaters, professional offices, general retail sales and services, but excluding drive-thru or fast-food restaurants, medical and dental laboratories or centers.

14.2 **Applicability**
Expansion of buildings or rehabilitation of existing interiors:

i. Special permits may be granted to PUD projects that are essentially an expansion of the existing building; and if the project meets all parking and Site Plan criteria required by the Planning Board;

ii. Special permits can be granted to PUD projects that are essentially a major renovation of an existing building if the major renovation involves 80% of the gross floor area, excluding basements, and if the project meets all parking and Site Plan criteria that may be required by the Planning Board;

iii. Number of dwelling units: The maximum allowable number of units shall be determined by the Planning Board. The decision of the Planning Board in this regard shall consider: 1) size and location of commercial space, if any; 2) physical limitations of building and lot; 3) provision of off-street parking; 4) traffic conditions in the general area; and 5) other conditions specified by the Planning Board.

15. **Minimum Tract Area**: For new construction and expansion, the minimum lot size required in the underlying zoning district shall apply for PUD development. In R-8, the minimum lot area shall be one (1) acre. All portions of the project area must be zoned as Central Business District, Central Industrial District, or R-8, or a combination of all.

16. **Usable Open Space**:

a. Usable open space shall be defined as a part or parts of land or structure with a PUD which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, but include required setbacks, waterways, walkway, and be open and unobstructed to the sky. Trees, planting, arbors, flagpoles, sculpture, fountains, swimming pools, atriums, open-air recreation facilities, and similar objects shall not be considered "obstructions".

b. In all PUD projects that are new construction, at least 50% of the land shall be set aside as permanent usable open space, for the use of the PUD occupants, or for the community. The required open space may be conveyed to the Amesbury Conservation Commission, to a nonprofit conservation organization, or to a corporation or trust representing the ownership of the PUD and shall be protected by the conservation restriction as required in Chapter 40A, Section 9, General Laws, for common open space

in cluster developments. A covenant shall be placed on the land such that no part of the PUD can be built, sold or occupied until such time as a satisfactory written agreement has been executed for protection of the open space. Open space requirements may be reduced by the Planning Board to 20% of the land, if over-riding public benefits are proposed in lieu of this requirement. Public benefits that would be considered by the Planning Board are as follows: deeded public parking, historic preservation restrictions as per MGL 184, public open space for use as park or play ground or minimum of 20% of total units as affordable housing that meet the requirements of Chapter 40B Section 20; and

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

17. **Setback Requirements**: Only for PUD in the Central Business District and Central Industrial District, all structures and facilities within the PUD shall be set back not less than fifty (50) feet from adjacent residential property lines. All setbacks in such PUD maybe reduced to the requirements for the CBD except for attached structures which may be permitted with zero feet side yard setback upon issue of special permit as per Section VI.F.11.

18. **Height**: No buildings in the PUD shall exceed the height allowed by the underlying zoning district. These provisions are applicable to Planned Unit Developments that are allowed as of right or by special permit.

19. **Off-Street Parking**:

a. In all PUD projects, adequate off-street parking shall be provided for all vehicles normally visiting the property at any one time. The parking may be ground level, underground or in a garage structure. For all residential uses, the use of municipal parking facilities is not permitted to meet the off-street requirements under this section. Unless otherwise permitted by the Planning Board, parking shall be provided on the land in the same ownership or on a separate parcel, provided the nearest parking space is within 500 feet of the principal entrance to the building that the parking lot will serve, and further provided that an agreement will be recorded dedicating the particular parcel to parking use for the long-term use of the buildings in the PUD. A copy of the aforesaid agreement shall be provided to the board before approval of special permit. Parking shall be provided at the following rates, for the different types of use proposed for the PUD project:

| USE | MINIMUM SPACES REQUIRED |
|---|---|
| Apartments, condominiums | 1.5 spaces per unit |
| All commercial & business activities | As required in Section VIII.7, Parking Regulations |

b. The off-street loading requirements for all uses located in a mixed use shall comply with this Bylaw, or as otherwise approved by the Planning Board.

## SECTION XI.H2 LOWER MILLYARD OVERLAY DISTRICT (LMOD) – SPECIAL PERMIT 2011-043

1. **Purpose:** A Lower Millyard Overlay District ("LMOD") and LMOD Special Permit (LMOD-SP) are established due to the unique natural resources, historic land use, and cultural significance of the properties located along the Powow River and the industrial area abutting it. This overlay district shall encourage the implementation of the recommendations of the 2004 Master Plan, as amended and supplemented from time to time for the Lower Millyard Area and serve to :

a) Provide a mixture of land usage within the Town of Amesbury;

b) Allow greater density and intensity of residential development than would normally be allowed provided that the land usage can be shown to be in the public good;

c) Encourage historic preservation, infill development and adaptive re-use of historic structures in applicable zoning districts;

d) encourage a pedestrian friendly mixed-use environment with ties to downtown, maximize the recreational assets of the waterways and bike path,

e) Encourage a building pattern, scale, setbacks, height, density, and design conforming to that now found in the historic downtown business district;

f) Encourage a pattern of building development similar to the existing downtown by eliminating excessive "yard setback requirements," and providing mandatory "build-to" lines;

g) Encourage mixed-use buildings with commercial uses on the ground floor and housing and/or offices above;

h) Promote a lively mixed-use district that will serve Amesbury's citizens and visitors with ample public space and intimately scaled streets and public pedestrian ways with key views and access to the River

i) Diminish the visual impact of the parked car by discouraging expansive surface parking lots and encouraging structured parking;

j) Encourage "shared parking" strategies in mixed-use projects to diminish overall parking requirements;

k) Provide incentives to construct pedestrian ways such as pedestrian alleys, sidewalk plazas and other public open spaces. Also provide incentives to pool and contribute private open space required by zoning to public open space areas;

l) Protect the architectural, cultural, economic and cultural heritage of the Lower Millyard area through preservation and adaptive reuse of existing historic structures and mill buildings;

m) Encourage affordable housing within an overall density that is generally consistent with the Zoning Ordinances and the downtown districts;

**n)** Foster expansion of industrial uses that preserve existing historic mill buildings and complement other redevelopment efforts in the Lower Millyard Area; and

**o)** Encourage redevelopment of existing buildings for industrial uses that are integrated into the

historic industrial fabric of the Lower Millyard Area and provide pedestrian access from adjoining neighborhoods to the waterfront.

2. **Establishment:** The LMOD is hereby established as an overlay district as shown on the Zoning Map of Town of Amesbury. Within the LMOD, the provisions of the underlying Central Industrial (IC) Zoning District and the R-8 Zoning District shall remain in full force and effect except where a LMOD-SP is issued whereby the provisions of the LMOD shall apply to the extent different than those of the underlying districts.

3. **Permitted Uses:** In addition to uses permitted in the IC district in the table of allowable uses, the following uses may be permitted in the LMOD by a LMOD-SP issued by the Planning Board without the approval of any other special permit granting authority:

   a. Office and retail without drive-thru's;
   b. Professional/business offices,
   c. Personal services,
   d. Multi-family residential
   e. Artist live/work space
   f. Accessory Marina (non-motorized watercrafts only)
   g. Accessory Parking Structure
   h. Any other use permitted by Special Permit within the IC district under the table of allowable uses.

4. **Dimensional Regulations and Development Standards:** All use categories allowed in the LMOD shall comply with the following requirements as applied to the *Lower Millyard Overlay District - Special Permit Area (LMOD-SP Area)*, notwithstanding the subdivision of the LMOD-SP Area into separate lots. The LMOD-SP Area shall include the total land area that is subject to the LMOD-SP application as approved by the LMOD-SP, and shall comply with the following requirements:

   a. ***Dimensional & Density Requirements:***

      1. For projects that consist of all new construction or new construction, alterations and additions in the LMOD and subject to a LMOD-SP, the following requirements shall apply, except as provided in Section XI.H2.4.2:
         - Maximum Coverage Area: 50% of portion of LMOD-SP Area and not including any area within 100 feet of Powow River.
         - Minimum Open Space (as defined below): 50% of the LMOD-SP Area, excluding public streets.

      2. In the LMOD, the following requirements shall apply for alteration and expansion of pre-existing non-conforming structures for existing industrial uses only and subject to a LMOD-SP:

         i. Maximum Coverage Area: 70% of portion of LMOD-SP Area and not including any area within 100 feet of Powow River.
         ii. Minimum Open Space (as defined below): 30% of the LMOD-SP Area, excluding public streets. If additional surface parking is required, minimum Open Space requirements may be reduced to 15% of the LMOD-SP Area by the

Planning Board if provisions of XI.H2.4.e.2 are met

b. ***LMOD-SP Area Requirements:*** The minimum land area eligible for a LMOD-SP in a single or consolidated ownership or control at the time of application is one (1) contiguous acre. For the purposes of this Section, land divided by public and private streets and public and private open space shall be deemed to be contiguous. Subsequent to the issuance of a LMOD-SP, applications for amendments or additions to the LMOD-SP shall not require that the land be in a single or consolidated ownership or control. The Planning Board may allow subsequent land area to be added to the LMOD-SP Area, by way of an amendment to the LMOD-SP, which shall require the consent of the original applicant(s) or its/their successor(s). An amendment to the LMOD-SP to add land to the LMOD-SP Area that is not in consolidated ownership or control of the original applicant(s) or its/their successor(s), may not utilize any of the open space, utilities, streets, parking or any other requirements of the LMOD-SP to meet the requirements of zoning unless authorized by the Planning Board and the original applicant(s) or its/their successor(s). Any resulting amended plan must meet all of the applicable open space, utilities, parking and other requirements.

c. ***Maximum Coverage Area:*** For the purposes of this Section, maximum coverage area shall be defined as the aggregate of all existing and proposed building footprint areas, driveways, off-street parking or loading spaces and expressed as a percentage of the total LMOD-SP Area.

d. ***LMOD-SP Area - Lot Requirements:*** *Each lot and the buildings on each lot* within the LMOD-SP Area shall comply with the following requirements:

- Minimum Street Frontage: 60 feet;
- Front Yard Setbacks: 0 feet minimum with up to a 8 foot maximum building setback to allow for traffic visibility across corners and driveways and design articulations such as protruding architectural features (i.e. bay windows, porches & stoops) provided such setbacks do not affect more than 40% of the streetscape on any block;
- Minimum Side & Rear Yard setbacks: 0 feet
- Minimum Lot Area: 5000 SF;
- Maximum Building Height: 40 feet, except as allowed in Section XI.H2.8.4.a;
- Multiple principal structures may be allowed on each lot provided the Maximum Coverage Area and Minimum Open Space requirements are met for each LMOD-SP Area

e. ***Open Space Requirements:*** For purposes of this Section, open space shall be defined as usable areas devoted exclusively for outdoor active or passive recreation, pedestrian alleys, walkways, sidewalks (other than the existing sidewalks), public parks, plazas, outdoor public markets, public restrooms, outdoor cafe space on private property or licensed from the Town if located on a sidewalk, and suitably designed and accessible space on roofs of a parking garage with at grade public access on at least two sides and alleyway connections to the abutting streets, or other similar outdoor public open space areas.

1. *Public Open Space Requirements:* All sidewalks adjacent to a public street layout shall be dedicated by easement or deed for public access. 50% of the required minimum open space shall be so dedicated. If residential and/or commercial uses are proposed, at least one public open space area within each LMOD-SP Area shall be at least 5000 square feet in area excluding any adjacent parking, driveway, sidewalk or pedestrian

walkways. All open space dedicated by easement or deed for public access shall be improved by the project Applicant to quality standards and configurations suitable for their intended uses and acceptable to the Planning Board. If public open space requirements cannot be met, then the Planning Board shall require the applicant to make improvements to open space areas, public access and pedestrian paths in the LMOD or in the IC Zoning District at their discretion and in keeping with the recommendations of the current Open Space and Recreation Plan and acceptable to the Board for an area equal to the amount by which the public open space requirement falls short;

2. If maximum coverage area exceeds 50% of the LMOD-SP Area due to existing buildings on the site and on-site parking areas, and the proposal consists of only the alteration and expansion of existing buildings and therefore open space requirements cannot be met, then the Planning Board shall require (a) the applicant to make improvements to open space areas, public access and pedestrian paths in the LMOD at their discretion and acceptable to the Board for an area equal to the amount by which the open space requirement on the parcel falls short, or (b) a permanent conservation restriction in perpetuity on a parcel of land adjoining the LMOD-SP Area or within the LMOD but excluding the areas within 100 foot buffer area of the Powow River, or (c) a combination of (a) and (b).

3. *Conveyance of Open Space:* The required open space may be conveyed to the Amesbury Conservation Commission, to a nonprofit conservation organization, or to a corporation or trust representing the ownership of the project and shall be protected by the conservation restriction as required in Chapter 40A, Section 9, General Laws, for common open space. A covenant shall be placed on the land such that no part of the project can be built, sold or occupied until such time as a satisfactory written agreement has been executed for protection of the open space.

f. ***Chapter 91 Commonwealth and Zoning Requirements:*** Any Commonwealth Chapter 91 requirement for the provision of publicly-accessible open space, facilities of public accommodation, pathways along the riverfront edge or the like shall be fully complied with. No more than 50% of the open space area required by this Section shall be part of the public open space required under Chapter 91 within the 100 foot buffer area of the Powow River. No building or structure shall be permitted within the lesser of (i) fifty (50) feet of the high water mark of the Powow River, or (ii) the limits of the water dependent use zone under Chapter 91.

g. ***Implementation of Development:*** Minimum lot area, open space, affordable housing, off-street parking requirements and other required mitigation, shall correspond with the sequence of development implemented in the LMOD-SP Area, so that at all times such requirements shall be met as applied only to those portions of the LMOD-SP Area for which building permits have been issued; such requirements shall be met prior to the issuance of certificates of occupancy for such buildings.

h. The Planning Board shall follow the requirements listed in Section 8 of the Amesbury Subdivision Rules and Regulations to insure compliance with such mitigation requirements related to such issued building permits under the LMOD-SP. The Planning Board shall follow the requirements listed in Section 6.09 of the Amesbury Subdivision Rules and Regulations to insure adequate construction of ways and compliance with other requirements of the Subdivision Rules and Regulations.

i. The Board may also require compliance with the Design Standards listed under Section 7 of the Subdivision Rules and Regulations if the Board deems it necessary for public safety, to improve and upgrade the public infrastructure and for the protection of sensitive environmental resources.

5. **Additional Requirements:**

a. ***Affordable Housing:*** At least 15% of all proposed residential dwelling units in the LMOD-SP Area shall be affordable as defined under M.G.L.A. 40B s. 20 and 760 CMR 45. Such units shall remain affordable in perpetuity.

b. ***Declaration of Covenants, Conditions and Restrictions:*** Prior to the issuance of a building permit for any land within the LMOD-SP Area, a Declaration of Covenants, Conditions and Restrictions shall be recorded by the owner(s) against all the land in the LMOD-SP Area containing provisions consistent with the requirements and restrictions of the LMOD-SP as issued by the Planning Board.

6. **Parking Requirements:** Parking shall be provided in the LMOD-SP Area in accordance with the following criteria:

a. All required parking within the LMOD-SP Area shall be provided by the applicant without the use of municipal parking lots or structures, except when the project proponent is the Town of Amesbury or if the applicant has prior written agreements with the Town of Amesbury for the use of municipal parking lots or structures;
b. Within the LMOD-SP Area, parking requirements may be met by off-street parking in accordance with Section VII, as modified by this paragraph, and by proposed on-street parking within the LMOD-SP Area;
c. The off-street parking requirements for (i) non-residential uses, shall be within five hundred (500) feet of the principal building, structure or use on the premises; and (ii) residential uses, shall be within three hundred (300) feet of the principal building, structure or use on the premises;
d. The LMOD-SP may allow "shared" reduced parking requirements for uses having different peak times of parking demand requirements, as determined based on the report of a traffic engineer engaged by the Applicant and approved by the Planning Board. Reduced parking requirements for industrial uses may be allowed based on the number of employees per manufacturing shift and other factors acceptable to the Board;
e. If permitted industrial uses are the only uses being proposed in the LMOD-SP Area, the Board may reduce the number of required parking spaces under Section VII, provided the applicant demonstrates that a) parking and loading space standards have been met in accordance with Section VII, b) the total number of parking spaces being proposed are atleast 15% more than the total number of employees employed by the proposed or existing facility c) no on-street parking shall be required. For this purpose, the applicant or the employer shall certify the total number of employees in the facility.

7. **Special Permit Procedure & Criteria:** The special permit shall conform to this title and to Chapter 40A, Section 9, General Laws, and to regulations which the Planning Board shall adopt from time to time for carrying out its requirements under this title. An application for a LMOD-SP and Amendment to a LMOD-SP shall be submitted and reviewed in accordance with the procedures listed in Section X.J. The Planning Board may issue a LMOD-SP for a project located within the

LMOD if it determines that the project meets the requirements of this Section and the Special Permit criteria of Section X.J.5. The plan shall be subject to the conditions of approval as determined by the Planning Board. The Board shall make a determination that the project meets all the requirements of this Section and all of the following criteria:

a. The project is consistent with the purposes set out in paragraph XI.H2.1
b. The site layout and building designs provide convenient and efficient pedestrian access within the Lower Millyard Overlay District and to surrounding neighborhoods and facilities;
c. Provides a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities
d. Encouragcs buildings with a pedestrian oriented scale and design
e. The Board shall adopt recommendations from other boards and committees regarding, among other things, the architectural value and significance of the site, building, or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.
f. In the case of new construction or additions to existing buildings or structures, the Planning Board shall consider the appropriateness of the size and shape of the buildings or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity.
g. In appropriate cases, impose dimensional and setback requirements in addition to those required by this title, provided no further zoning relief is required. The Planning Board shall not consider interior arrangements not subject to public view; and
h. The project has been reviewed and approved by the Planning Board as to its design and architectural consistency.

**8. Site Plan Review:** Site plan approval for a LMOD-SP shall be subject to the following criteria, The SPR Procedure for a LMOD-SP shall consist of SPR review as provided for in Section XI.C of the zoning ordinance and the requirements of this Section. Site Plan Approval for projects within the LMOD shall also be subject to the following where indicated herein and to the extent these requirements and/or standards are inconsistent with Section XI.C.8, the following shall supercede those provisions in Section XI.C.8

1. **LMOD-SP Site Plan Review (SPR) Submittal Requirements**:
   a. **Master Site Plan:** A Master Site Plan shall be prepared and submitted for the Planning Board's SPR for the development and/or redevelopment of a LMOD-SP Area in its entirety, even if such property(ies) is/are developed incrementally over an extended period of time. The Master Plan shall illustrate both the initial development proposal as well as developments intended to be implemented over time.
   b. The Master Site Plan submitted for SPR shall include:
      i. the submittal requirements in Section XI.C.5,
      ii. narrative and illustrative submittals on urban design objectives and architectural design standards (including all buildings, open space improvements and proposed signage).
      iii. context map indicating adjoining properties and streets;
      iv. the proposed sequence of development;
      v. an illustrative timetable for development; the proposed location of all streets, walkways, and open spaces, proposed topography, lot layout, landscaping, signs, lighting and utilities; building locations, design and heights, presented at a level of conceptual design plans;

vi. parking locations and amounts, including the manner in which parking requirements will be met prior to full build-out of the development;
vii. required easements and deeded areas;
viii. view corridors to be fully established and preserved from public right of way toward the water; and
ix. a listing of all waivers requested.

2. **LMOD-SP Building Permit Review:** The submittals for building permit approval shall include the submittal requirements of Section XI.C.5 and Section XI.C.6 and certification documenting the manner in which the requirements of the LMOD-SP, including the off-street parking requirements, are met by each application for a building permit.

A. Site Plan: The final plan shall show the following information and meet the following requirements:

1. It shall be drawn at a scale of one (1) inch equals forty (40) feet, unless another scale is previously requested and found suitable by the Planning Board.
2. A professional engineer, registered architect, or registered landscape architect shall prepare the Site Plan.
3. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
4. A utilities and drainage plan shall be prepared by a professional engineer.
5. The scale, date, and north arrow shall be shown.
6. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting street and ways.
7. Easements within the lot and abutting thereon.
8. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required.
9. The total number of establishments and dwelling units.
10. The location of existing wetlands, water bodies, wells, one-hundred-year Floodplain elevation and other natural features.
11. The distance of existing and proposed buildings from the lot lines and the distance between the buildings on the same lot.
12. Percent of building lot coverage.
13. Average height of each building (see definition).
14. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
15. Existing and proposed topographical lines at two-foot intervals.
16. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
17. Number of parking spaces.
18. Height of all buildings, above average finished grade of the abutting streets.
19. A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, and species of plantings.
20. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as a MUD and that the land is in single or consolidated ownership at the time of final plan application.

21. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution to surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; proposed lighting and landscaping in surface parking areas; projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

3. **Guidelines for Site Planning, Uses and Building characteristics**

a. **From Market Square down Water Street:** A mix of residential, commercial and office space should be planned for the cluster of historic buildings in this area. Retail activity should be expanded on the ground floors of existing buildings to strengthen the close by downtown investments of recent years. A small urban village square is most desirable at the foot of Water Street with intimate pedestrian way connecting it to Market Square to provide a focal point for the expanded downtown. To complete the creation of an active square and village center, the parking deck should be screened with structures with mixed uses and active ground floor uses. Elderly housing or artists' live/work space in multistory buildings with parking below can complement the village square development and feel of New England Village. All new construction and rehabilitation should be minimum three stories in height and take advantage of the view from the riverbanks. Waterfront should be celebrated with public parks and access along Powow River and Back River.

b. **Chestnut Street Area:** The large parcels between Railroad Ave. and Chestnut Street hold potential for housing, especially transit oriented development. However, due to the need for additional public parking to support economic activity in downtown and expanded commercial base in the Lower Millyard, structured parking is encouraged with housing above in this area and commercial activity at street level enclosing the structured parking areas. Views and public access should be focused on the downtown and Back River. Orientation of the building sites and street/parking areas should blend into the existing residential neighborhood rather than form a private enclave of new housing. Landscaping and setbacks should be provided to prevent any conflicts between new housing and existing industrial activities towards Elm Street. Affordable/elderly housing should be planned and would be most desirable due to proximity to the Transportation Center Site. Access from Railroad Ave. to Chestnut Street may also allow access to public parking.

c. **Oakland Street:** Existing brick mill buildings should be preserved and renovated for mixed use. It should provide a streetscape that is conducive to pedestrian traffic similar to Downtown Amesbury. Pockets of green spaces should be mixed with urban landscaping and places for public assembly to encourage street activity in courtyards. Parking could be underground taking advantage of the grade changes along Chestnut street extension and other places favored by topographical changes.

d. **Chestnut Street Extension:** New development should be designed to "knit" together with the neighborhoods surrounding the area to strengthen both old and new. Connection with the Riverwalk and enhancement of views to the Powow River are key design elements that should be incorporated. Public access to the waterfront is strongly desirable. Also the buildings should vary in massing to allow the mill buildings along Oakland Street to continue to enjoy views of the Powow River.

## 4. Design and Performance Standards

a. *Roofs and Building Height:*

1. Building height is measured from the mean grade elevation (average grade around perimeter of building) to the mean roof elevation (one-half the vertical distance from eave to ridge), except that building height for a parking structure with an open roof and parapet design shall be measured to the upper plane of the top floor of the upper parking level.
2. Building entirely above structured parking shall have a maximum building height of 45 feet from the existing average grade around the perimeter of building.
3. Towers, cupolas and other architectural features which extend above the maximum building height shall be allowed at the discretion of the planning board provided these elements occupy no more than 10% of any building façade or combination of two facades which adjoin at a corner.
4. A roof dormer located along the public way may not exceed the mean roof elevation for more than 30% of the total roof area measured on that side of the roof pitch in which such dormer is located and shall not include ganged windows.
5. Recessed dormers may be permitted along the rear side of the building such that they are not visible from a public way or pedestrian walkway.
6. The use of skylights along the public way is strongly encouraged to maintain the historic roof patterns of the neighboring residential and downtown business districts.
7. Furthermore, the roof heights of buildings and top cornice heights that front on public ways running perpendicular to the water's edge should use architectural means to emphasize the natural declining slope of the site, in stepped increments, as they approach the water's edge. Each such horizontal stepped increment shall be no longer than 100 feet in length and may be increased at the planning board's discretion.

b. *Building Design:* The following design standards shall be used for additions, expansions, alterations and new development in the LMO district: (Note: This would allow substantial changes to existing buildings to be compatible with new development)

1. Continuous street facades with firewalls between adjacent buildings;
2. The use of pedestrian passageways within and between buildings to provide access and views to the water;
3. All buildings should front directly on the public street or on a private street or pedestrian walkway with front doors;
4. Service access should be provided to the rear wherever possible;
5. Buildings that front on sloping streets should follow the grade of the street such that the businesses have entrances at grade. Blank walls emerging from the slope should be minimized;
6. New buildings or additions to existing buildings that require new foundations shall not be less than two stories in height. New buildings or additions should be harmonious with the scale, proportion, materials and color of the existing historic buildings in downtown Amesbury. They should be compatible in size, scale, material, color, and character of the existing historic buildings downtown. The use of natural materials such as masonry, stone, brick and woods as primary facing or siding is recommended. For additions to existing historic structures, compatibility should be based on the specific style and massing of the original structure and the surrounding neighborhood context; Consistent

with the historic character of existing buildings within the downtown business district, the roof forms of all buildings, except parking structures, shall be encouraged to be sloped, pitched or mansard. However, limited use of flat roofs may also be permitted by the Board;

7. Large buildings for residential uses and business uses shall be encouraged to be articulated to create an image of smaller buildings attractively joined together through architectural means such as varied building setbacks, bay treatments or top cornice heights and styles.
8. The buildings and top cornice heights that front on public ways running parallel to the water's edge should have varied heights and styles.
9. Building facades facing streets or pedestrian plazas are also referred to herein as the building front(s) or building front façade(s). Such building fronts shall have a vertical orientation, meaning either that the building shall actually have a greater height than width, or that the façades and roof lines of the building are designed to reduce the massing and bulk so that it appears as a group of smaller masses with distinct vertical orientation;
10. A traditional pattern of vertically proportioned double-hung windows comprised of simulated divided light with spacer bar and doors facing all public ways shall be required; Mirror windows and highly reflective surfaces shall not be allowed on the building fronts;
11. The building front(s) shall contain windows covering at least 15 percent of the façade surface. Windows shall be highlighted with frames, lintels, and sills, or equivalent trim features as found in the Amesbury central business district or the existing mill buildings in the lower millyard overlay area;
12. On the street level, the amount of windows in the façade surface shall be at least 20 percent but not larger than 80 percent. Display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall;
13. Garage doors or loading docks shall not be allowed in the building fronts;
14. The building front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. No more than 50 feet of a building front shall be in the same vertical plane;
15. Except for ground level display windows, windows shall have a 2:1 ratio of height to width;
16. Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two or three story buildings, or two or three story portions of a building, may have a flat roof provided that the tops of the building front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the building from all visible sides of the building;
17. Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials;
18. Accessory structures, air conditioning equipment, electric utility boxes, trash receptacles and other ground level utilities shall be unobtrusive when viewed from the street and adjacent lots;
19. Signage – Signs for commercial establishments shall be permitted according to the regulations for the Central Business District and as stated under Section VII.5.C of the ordinance. New free-standing signs or expansion of existing free standing signs shall not be allowed;

20. Facades of all buildings greater than 3 stories shall be brick masonry for at least 50% of their surface.
21. Walls around structured parking extending above grade shall be treated with architectural elements consistent with the buildings elsewhere on the site.
22. Renovation and new construction should be designed to take advantage of the falls and riverbanks of Powow River and Back River
23. Existing historic buildings and brick mill buildings should be preserved. The planning board may require preservation restrictions for certain historically significant buildings.
24. Exterior Lighting - Outdoor lighting poles shall be no greater than twelve (12) feet in height and similar in character and style to those existing in Downtown Amesbury.
25. Retaining Walls: Retaining walls shall be constructed of natural fieldstone or stone veneer and shall be no more than five (5) feet in height. Walls greater than five (5) feet shall have to be tiered five (5) feet apart.
26. Parking lots open to sky between the water's edge and any building shall be strongly discouraged. However, residential and commercial uses with parking below may be proposed along the Back River.

c. *Public Street Water Vista View Termination:* New public streets constructed perpendicular to the water's edge shall terminate in water views.

d. *Public Streets and Public Pedestrian Alleyways*: Proposed public and private ways shall conform to Section 7.09 of the Amesbury Subdivision Regulations, as amended. Sidewalks and pedestrian alleyways shall be paved with brick or cobble stone. Existing sidewalks shall be repaired and repaved with brick and granite curbing shall be installed to bring them in compliance with current subdivision standards.

e. *Above Grade or Underground Parking Structures or Facilities/Ground Floor Use:* Parking structures, whether above grade or partially below grade, fronting on a public right of way or a pedestrian way along the riverfront shall include active ground floor commercial uses along a minimum of 50% of the structure's length facing such public right-of-way or street.

f. *First Floor Uses:* The first floor use along the building perimeter of all new buildings, including expansion and additions to existing buildings or buildings fronting a public right of way or a pedestrian walkway along the water's edge should be devoted to commercial, retail, or restaurant use and incorporate glazed storefront windows and shop entry doors in keeping with traditional architectural styles found elsewhere in downtown, except that 20% of such first floor use along the building perimeter shall be permitted to be accessory to any upper level uses. This percentage may be increased to 35% at the discretion of the planning board. Such first floor uses are desirable, but not required along all other private streets and pedestrian ways. An exemption from first floor use requirements is allowed for alteration and expansion of existing buildings for industrial uses that require a LMOD-SP.

g. *Bike Parking:*
1. Bike Parking should be provided for bicycles. The total number of spaces/stalls for bikes shall be at least 10% of the sum total of the vehicular parking requirements for each use on the site. Parking within the building is preferred as an option;
2. Outdoor bicycle parking spaces are to be clearly marked as such and shall be separated from motorized vehicle parking by some form of physical barrier designed to protect a bicycle from being hit by a motorized vehicle;

3. Each bicycle parking space shall be provided with some form of stable frame permanently anchored to a foundation to which bicycle frames and both wheels may be conveniently secured using either a chain and padlock or a U-lock. The frame shall support a bicycle in a stable position without damage to frame, wheels, or components. The rack known as an "inverted U-rack" is the preferred type;
4. Outdoor bicycle parking facilities shall be surfaced, at a minimum, in the same manner as the motorized vehicle parking area and shall be equally level;
5. Bicycle racks for a minimum of twelve (12) bikes and seating benches shall be provided as amenities around the public space exclusively for the public to use along the Powow Riverwalk or pedestrian walkway. Bicycle racks shall be located such that they do not conflict with pedestrian movement along sidewalks or access to buildings; and
6. The Planning Board may reduce the total number of required bicycle parking spaces only in the instance where alteration and expansion of existing buildings is proposed for existing industrial uses that require a LMOD-SP.

h. *Infrastructure Improvements*: All existing overhead utilities that are being relocated on the site shall be laid underground along with any proposed expansion or improvements to such utilities.

9. **Project Changes:** All project changes shall be subject to the following requirements:

a. If future implementation of development subsequently requires major changes or alterations to the approved LMOD-SP, such changes or alterations are subject to the Planning Board's approval of (1) an amendment to the LMOD-SP and (2) an amendment to the initial SPR decision, administratively reviewed by the Planning Board under Section XI.C. Amendments to the LMOD-SP and the SPR decision shall be based upon the zoning provisions in effect at the time of issuance of the approved LMOD-SP unless the applicant and the Planning Board agree that such amendment shall be based upon the zoning provisions in effect at the time of application for such amendment.

b. Any resulting amended plan must meet all of the applicable open space, utilities, parking and other requirements.

c. Any one of the following changes or modifications shall require Planning Board approval. Major changes or alterations shall be defined as those that:

1. increase the aggregate approved amount of development by greater than 10% of the approved gross floor area in the LMOD-SP Area, or;
2. increase the approved density of multi-family uses, alter the approved location and/or increase the approved gross floor area of commercial uses by greater than 20% of the aggregate approved amount of development or conversion of ground floor non-residential use to residential use;
3. Substantially change the pattern of streets, substantially change the building design standards, or substantially alter the distribution or use of open space within the LMOD-SP Area; or
4. are based on a request by the applicant that a change or alteration be based upon the zoning provisions in effect at the time of application for the change or alteration.

d. In determining whether a change is "substantial" for the purposes of clause (c), a change which conforms to the Design and Performance Standards of Section XI.H.2.8.2 shall not be considered to be substantial. Minor additions, alterations or extensions of pre-existing non-

conforming buildings within the LMOD-SP Area may also be permitted by a revision to the approved LMOD-SP, which shall not be considered to be substantial, provided that such additions, alterations or extensions are in conformity with Section XI.H.2 and the LMOD-SP and are approved by the original applicant(s) and its/their successor(s) for the LMOD-SP as provided in Section XI.H.2.7A;

e. All changes or alterations below these thresholds shall be regarded as minor and shall not be subject to the administrative procedures of XI.C but still require Planning Board approval for amendment to the LMOD-SP. If minor changes or alterations are determined by the Planning Board to not be in substantial compliance with the requirements of this section, additional review and approval by the Planning Board must be obtained prior to issuance of the Building Permit

f. Revised Site Plan documents submitted to the Planning Board in connection with any requested amendments to the LMOD-SP or SPR shall reflect any changes approved both within the LMOD-SP Area as well as any approved and/or constructed changes on adjacent properties or along adjacent streets in the immediate vicinity of the LMOD-SP Area.

10. **Severability**: The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

LOWER MILLYARD
OVERLAY DISTRICT
AMESBURY, MASS.

## I. Wireless Communications Facilities Bylaw:

1. Purpose: The purpose of this subsection is to: (1) minimize the adverse impacts of wireless communication facilities (hereinafter "WCF") on adjacent properties and residential neighborhoods; (2) minimize the overall number and height of such facilities to only what is essential; (3) promote shared use of existing facilities to reduce the need for new ones; (4) encourage the most appropriate use of the land and to guide sound development while promoting the health, safety and general welfare of the City; and (5) establish districts in which WCFs may be located.

2. To achieve the above purpose, this subsection establishes the following Wireless Communication Districts:

Wireless Communication District A

This overlay district consists of all land located in the Industrial District (I) as shown on the official zoning map for the City of Amesbury. Within this district all of the requirements of the underlying zoning district(s) continue to apply, with the exception of the maximum height allowance applicable to WCFs, which is established in Section XI.I.3 of this section. The following additional uses shall be allowed:

a. Indoor WCFs, allowed as-of-right subject to the dimensional requirements, performance and design standards of this subsection;

b. Building-mounted and existing freestanding WCFs, allowed subject to Site Plan Review from the Planning Board and the dimensional requirements, performance and design standards of this subsection;

c. New freestanding WCFs, allowed subject to a special permit and Site Plan Review from the Planning Board and subject to the dimensional requirements, performance and design standards of this subsection.

Wireless Communication District B

This district consists of all land located in the Commercial (C), Central Business District (CBD), Open Space Conservancy (OSC), Office Park (OP), Industrial Central (IC), and Residential (R-8) District, as shown on the official zoning map for the City of Amesbury. Within this district all of the requirements of the underlying zoning district(s) continue to apply, with the exception of the maximum height allowance applicable to WCFs, which is established in Section XI.I.3 of this section. The following additional uses shall be allowed:

a. Indoor WCFs, allowed as-of-right subject to the dimensional requirements, performance and design standards of this subsection;

b. Building-mounted and existing freestanding WCFs, allowed subject to Site Plan Review from the Planning Board and the dimensional requirements, performance and design standards of this subsection.

3. Dimensional Requirements for WCFs:

Freestanding and building-mounted WCFs shall comply with the following dimensional requirements:

a. Freestanding WCFs shall:
   i. not exceed one-hundred twenty (120) feet in height, measured from the base of the tower to the highest point of the tower or its projections.

ii. be setback from the property lines of the lot on which it is located by at least one hundred (100) feet measured from the center of the structure of the WCF base.
iii. be located a minimum of two hundred (200) feet from the nearest residential building.
iv. be separated from each other by a minimum of two (2) miles.

Based on a clear display that additional height of the tower or reduced setbacks of the tower from buildings or property lines will not adversely affect any purpose of this Bylaw and will in fact help to promote the objectives set forth herein, particularly as it relates to co-location, the Planning Board may, by special permit, allow the height of the tower to be increased, or the required setbacks or separation reduced, up to a maximum of fifteen (15%) percent.

b. Building-mounted WCFs shall not:
(i) exceed fifteen (15) feet above the roof top of a supporting building, including any penthouse, parapet or other similar structure extending above the roof top;
(ii) exceed fifteen (15) feet above the highest point of a water tower;
(iii) exceed the highest point of a smokestack.

4. Performance Standards/General Requirements

The following performance standards and general requirements shall apply to all WCFs:

a. Compliance with Federal and State Regulations: All WCFs shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Act.

b. Co-location of WCFs: WCFs shall be designed to accommodate the maximum number of users technologically practical. Shared use of freestanding, building mounted, or indoor WCFs by commercial carriers is required unless such shared use is shown to be not technologically practical. The intent of this requirement is to reduce the number of separate facilities which will require location within the community.

c. Removal of Abandoned WCF: Any WCF that is not operational for a continuous period of twelve (12) months shall be considered abandoned, and the WCF shall be removed by the owner of the WCF, and the site restored to its original condition, within ninety (90) days of receipt of notice from the Building Inspector notifying the owner of such abandonment.

If such WCF is not removed within ninety (90) days, such WCF shall be deemed to be in violation of this Zoning Bylaw and the appropriate enforcement authority may begin proceedings to enforce and/or cause removal. At such time, the Bond referred to in XI.I.6.c (s) (c) herein may be used for removal and restoration purposes. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

d. The applicant shall file an annual report with the Inspector of Buildings providing the current ownership of the wireless communication facility and showing all owners, operators an/or lessees that operate equipment at the wireless communication facility. The report shall include mail and telephone contact information for all owners and equipment operators. Finally, the applicant shall report to both the Inspector of Buildings and the Planning Board any increase in use or cessation of use at the facility.

5. Design Standards

The following design standards shall apply to all freestanding WCFs, except for paragraph A, which shall apply for all exterior WCFs:

a. All exterior WCF equipment and fixtures shall be painted or otherwise screened or colored to minimize their visibility of occupants or residents of surrounding building, streets, and properties. WCF equipment and fixtures visible against a building or structure shall be colored to blend with such building or structure. WCF equipment and fixtures visible against the sky or other background shall be colored to minimize visibility against such background. The maximum amount of vegetation shall be preserved during construction of any WCF.

b. All freestanding WCFs shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use.

c. The only type of freestanding WCFs allowed shall be monopoles, with associated antenna and/or panels. Microwave dishes are not permitted. Whenever technologically feasible, antennas shall be mounted flush against a pole, provided that such mounting does not compromise the potential for co-location. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

d. To the extent feasible all network interconnections from any WCF shall be installed underground, or inside an existing structure.

e. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the City. Fencing shall not be razor wire.

f. There shall be no sign, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with Section VII. Signs of this Zoning Bylaw.

g. Night lighting of freestanding WCFs shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

h. There shall be a maximum of one (1) parking space for each freestanding WCF, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

i. All buildings and/or storage sheds shall not exceed two hundred (200) square feet in size and ten (10) feet in height, and shall be of the same design and color.

6. Special Permit:

A. Application Process

1. All special permit applications for WCFs shall be made and filed on the appropriate application form. For an application to be considered complete, it shall comply with the Rules and Regulations governing granting of special permits, and shall also provide ten copies of the following information:

a. A color photograph or rendition of the proposed monopole with its antenna and/or panels. A rendition shall also be prepared providing eight (8) view lines in a one (1) mile radius from the site, shown beginning at true north and continuing clockwise at forty-five (45) degree intervals.

b. A description of the monopole and the technical, economic and other reasons for the proposed location, height and design.

c. Confirmation that the monopole complies with all applicable Federal and State standards including, but not limited to, the Federal Aviation Administration, Federal Communications Commission, Massachusetts Aeronautics Commission and Massachusetts Department of Public Health.

d. A description of the capacity of the monopole including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.

2. Within fourteen (14) days prior to the public hearing, the applicant shall arrange to locate a crane, or an alternative temporary structure approved by the Planning Board, at the site in a manner that replicates the exact height an location of the proposed monopole, and is visible from every direction for a distance of one (1) mile. The crane or structure shall remain in position for no less than three (3) consecutive days, for at least twelve hours per day. The dates and location of the siting shall be advertised in a newspaper of general circulation in the City at least fourteen (14) days before the siting and notice shall be sent to abutting property owners.

B. Review Criteria

In addition to applying the special permit general conditions described in Section X, subsection J, of this Zoning Bylaw, and the standards, requirements, or conditions set forth in this Section XI.I, the Board shall review the special permit application in accordance with the following criteria:

(1) An applicant proposing a freestanding WCF shall prove to the satisfaction of the Board that the visual, economic and aesthetic impacts of the facility on the community will be minimal. The applicant must also demonstrate that the facility needs to be located at the proposed site due to technical, topographical or other unique circumstances. In determining whether to issue a special permit, the Board shall consider the following factors: height of the proposed WCF; the nature of uses adjacent and nearby properties; surrounding topography; surrounding tree coverage and foliage; the visual impact of the facility on the abutting neighborhoods and streets; and the impact on existing vistas and natural resources.

(2) No freestanding WCF shall be erected or installed except in compliance with the provision of this Section. Any proposed extension in the height, or construction of a new or replacement of a facility, shall be subject to a new application for a special permit. The addition of cells, antenna or panels to an existing facility does not require the issuance of a special permit but is subject to Site Plan Review.

C. Conditions of Approval

The following conditions of approval shall apply to all grants of applications of WCFs that require a special permit as indicated by Section XI.I.3 herein:

(1) Copies of all annual certifications must be provided to the City's Zoning Compliance Officer which demonstrates continuing compliance with the standards, rules and regulations of the Federal Communications Commission, Federal Aviation Administration, National Institute of Standards and Technology, Massachusetts Aeronautics Commission, Massachusetts Department of Public Health, and other applicable federal, state and local laws.

(2) If a freestanding, exterior WCFs to be placed on municipal property the following conditions must be satisfied:

(a) Certificate of Insurance for liability coverage in the amounts of $1,000,000.00 must be provided naming the City as an additional insured.

(b) An agreement whereby the user indemnifies and holds the City harmless against any claims for injury or damage resulting from or arising out of the use or occupancy of the City owned property by the user.

(c) A cash bond in a reasonable amount determined and approved by the Board shall be in force to cover removal of WCF and restoration of site to the condition that the premises were in at the onset of the lease when use of said WCF becomes discontinued or obsolete. The amount is to the payable to the City in the event that the user violates the requirement in XI.I.4.c above.

(3) A maintenance bond shall be posted for the access road, site and monopole in amounts approved by the Board.

(4) The holder of a special permit for a WCF shall reasonably allow co-location upon the WCF. In addition to the above, the Board may impose additional conditions as needed to minimize any adverse impacts of the proposed WCF.

(5) If a special permit is denied by the Planning Board, the Planning Board shall, in writing, state reasons for such denial.

7. Exemptions

The following types of WCFs are exempt from this Section I:

(1) Amateur radio towers used in accordance with the terms of any licensed amateur radio station licensed by the Federal Communication Commission, provided that the tower is not used or licensed for any commercial purpose.

(2) Facilities used for the purposes set forth in M. G. L., C.40A, Section 3.

## J. Multi-Family Special Permit:

1. **Objectives:** The objectives of this subsection are to:
   a. Allow maximum flexibility for the provision of housing in Amesbury, and
   b. In the Central Industrial (IC), Commercial (C), and Central Business District (CBD) zones only, allow for mixed-use (residential and commercial in the same building) in existing or expanded multi-story buildings and further, allow for the conversion of existing, or expanded mixed-use, industrial or commercial buildings to multi-family residential buildings. New mixed-used buildings may be permitted provided they meet the Permitting Criteria below.

2. **Applicability**: The Planning Board may grant a special permit for dwelling units located above ground-floor commercial uses in existing, proposed or expanded multi-storied buildings in the Central Business or Commercial Districts and the Central Industrial District. In no instance, however, may a permit be granted that would allow industrial and residential uses to occupy the same building.

3. **Procedural Requirements**: These procedural requirements shall be in addition to the general requirements for a special permit specified in Section X.J of this Bylaw.
   a. Pre-Application Review: Potential applicants are encouraged to meet with the Planning Board and describe their project. The Planning Board shall then specify the written or mapped material they may require.
   b. Application: The applicant shall submit to the Planning Board an original and ten (10) copies of all materials requested by the Planning Board, and all materials required for a Site Plan Review as described in Section XI.C of this Bylaw.
   c. Parking Plan: Applicant for this special permit shall submit an original and ten (10) copies of a parking plan at a scale no larger than 1"= 100 feet which shall clearly show the relationship of off-street parking requirements to the building concerned. Such plan shall indicate lighting and landscaping if required by the Planning Board.

4. **Permit Criteria**:
   a. Number of dwelling units: The maximum allowable number of units shall be determined by the Planning Board. The decision of the Planning Board in this regard shall consider: 1) size and location of commercial space, if any; 2) physical limitations of building and lot; 3) provision of off-street parking; 4) traffic conditions in the general area; and 5) other conditions specified by the Planning Board.
   b. Allowable Uses: All Commercial uses allowed by the district shall be located at least on the ground floor of building and all residential dwelling units shall be located over the commercial uses above the ground-floor or street level story of the building. Construction of new free standing single-use, multifamily structures are not permitted under this special permit.
   c. Dimensional Regulations: The building and lot shall meet the dimensional regulations for commercial or industrial uses in the zoning district in which the building and lot are located except that the Planning Board may increase in part or totally said dimensional regulation when, in their opinion, the public interest would be served.
   d. Parking Requirements: The Planning Board may require that off-street parking spaces and loading requirements for commercial uses shall be the same as required in Section VIII of this Bylaw. In addition the applicant shall provide one and a half (1 1/2) off-street parking space for each residential dwelling unit therein either on the lot or in a public off-street parking area located within 500 feet of the building and lot. Applicants planning to use public off-street parking areas to meet the requirements of this subsection

must be prepared to demonstrate that prior special permits granted for this use do not exceed the capacity of the public off-street parking area. The Planning Board may choose to limit the amount of parking in public off-street parking areas, if in their opinion there would not be sufficient space to serve the general public.

## J2 – Historic Preservation – Special Permit

### 1. PURPOSE AND INTENT:

1. Preserve the integrity of structures and contributory elements of historic or architectural significance, such as settings and sites, objects, monument, trees or other elements;
2. Encourage preservation and continued use of buildings, structures, sites and settings, and other elements of historical or architectural significance;
3. Establish eligibility criteria for buildings, structure, sites and settings, and other elements attaining protected status;
4. Encourage adaptive re-use by broadening the permitted uses in various zoning districts and relaxing dimensional standards governing those permitted uses;
5. Permit the flexibility of development options by modifying dimensional and density requirements that may impede historic preservation efforts; and
6. Seek public benefits such as preservation restrictions, conservation easements and/or affordable housing restrictions for allowing greater density than allowed by conventional development standards.

### 2. AUTHORITY TO GRANT PERMITS:

a). Permitted Uses:

In addition to uses permitted in any residential zoning district or in the Central Business District, in the table of use regulations, multi family residential uses may be permitted by a Historic Preservation Special Permit (HP-SP) issued by the Planning Board without the approval of any other special permit granting authority.

The Planning Board ("the Board") may grant a HP-SP to authorize actions that would otherwise not comply with the provisions of this Bylaw and that would allow the renovation, repair, of adaptive reuse of historic or architecturally significant buildings or structures. The granting of a HP-SP shall also constitute approval and compliance with Site Plan Review requirements outlined in Section XI.C. The Board may grant relief from specific sections of the Bylaw as outlined below without the approval of any other special permit granting authority:

i. In order to permit conversions of existing historic buildings or structures, the Board may modify the standards in Table of density and Dimensional Regulations, with regards to minimum lot area, lot frontage, front, side and rear setbacks to allow residential uses in an existing or proposed principal or accessory structure.
ii. The Board may also grant a HP-SP for multi-family residential conversions within existing historic buildings or structures in all residential zoning districts;

b). Dimensional and Density Requirements

The Board may allow more than one principal structure on a lot or lots in common or consolidated ownership ("lots") in consideration of the HP-SP provided that only residential or agricultural uses are proposed in any or all the buildings. Under the HP-SP, the Board may grant relief to any or all dimensional requirements listed under section VI without the approval of any other special permit granting authority.

In reviewing the HP-SP, the Board shall consider the following in making its determination:

i. Density: In determining the total number of proposed residential dwelling units, the Board shall take into consideration traffic circulation, parking requirements and location, impact on the integrity of the existing historic structures and the property, and the overall impacts to the general character of the neighborhood. In particular, the Board will evaluate the aesthetic impacts to the existing historic buildings or structures from the proposed renovations, alterations, extensions or additions. Up to three (3) residential dwelling units may be allowed on the lot(s) proposed for a HP-SP. Four (4) residential dwelling units or more may be allowed provided that the lot(s) shall have at least twice the minimum lot area of the zoning district in Central Business District, R-8, R-20, R-40, and R-80 or at least one (1) acre in RC districts. To be considered for four (4) or more residential dwelling units in the project, the lot(s) shall have at least one principal structure and also one (1) accessory structure with a building footprint of at least 500 SF. The Board may not permit four (4) or more residential units, even if the lot(s) meets the area requirements, if the overall project does not meet the criteria under subsection 5 and 6 of section XI.J2;
ii. Minimum Lot Size: For any lot subdivided for use as a single family dwelling unit, the minimum lot size shall be 10,000 SF. For any new lot subdivided for use as a two or three family dwelling, the minimum lot size shall be 12,000 SF.
iii. Bonus Unit: One (1) bonus unit may be granted by the Planning Board for relocating a historic structure instead of creating a new structure for any proposed units. The applicant shall have prior approval from the Amesbury Historical Commission to move that structure to the proposed location;
iv. Open Space: Existing open space on the lot(s) cannot be reduced by more than fifteen percent (15%) of the requirements of the zoning district for all new or relocated buildings or structures and by twenty-five percent (25%) by all new or relocated buildings or structures, driveways, and parking. Each dwelling unit shall have designated private open space area of at least 200 SF;
v. Entrances & Parking: If feasible, multiple dwelling unit entrances shall not be visible fro a public way. Multiple entrances visible from the public way may be allowed if consistent with the architectural style of the building or structure. Secondary means of egress, especially from upper stories, shall not be visible from the public way. On site parking shall be provided at the rate of 1.5 parking spaces per dwelling unit. If more than six (6) parking spaces are required, excess spaces shall be adequately screened or concealed as per the design standards outlined in this bylaw;
vi. Frontage, Access, Lot Width and Setbacks: For all new buildings or structures, the Board may waive the dimensional requirements (except height) of the zoning district up to 50% if the project is consistent with the intent and purposes of the bylaw. The Planning Board may allow a Common Access Driveway, as defined under XI.O to be used as frontage and access for the lots.
vii. New Principal Buildings or Structures: No more than one (1) new principal building or structure may be proposed on a lot(s) and it shall not exceed one half (1/2) of the gross floor area of the existing principal historic building or structure on the lot(s). Proposed new buildings or structures, or the replacement or reconstruction of structures previously existing, shall be consistent in character and appearance to any existing historical structure(s) and shall be harmonious with the exiting streetscape or view of the subject property from the public way unless documented otherwise by historic photographs, plans or other historic data; and
viii. Existing Non-Conformities: In cases of existing non-conformity with the provisions of Section VI, approval of a HP-SP shall permit the Board to grant relief to any or all dimensional requirements listed under Section VI without the approval of any other special permit granting authority.

## 3. APPLICABILITY:

a. Historical Building or Structure:
Any building structure or element that is 75 years or more old and meets the eligibility criteria as defined below shall qualify under this section of the Bylaw.
b. Historic Eligibility Defined:
Any lot(s) containing a historic building, element or structure as defined above, may qualify or application under Section XI.J2, HP-SP, if it is included on any of the following lists or surveys:

1. The building or structure is listed on:
    a) National Register of Historic Places, or
    b) State (Commonwealth of Massachusetts) Register of Historic Places
2. Inclusion by the Amesbury Historical Commission (AHC) in its Comprehensive Cultural Resources Survey of 1999, or i) deemed historically significant by AHC under Article 40.2.3 of the City Bylaws or ii) certification by that Commission of historic and/or architectural significance and thereby potential inclusion in the Comprehensive Cultural Resources Survey;
3. Inclusion in the Historic Inventory and map in the latest Master Plan, Preservation Plan, Open \Space and recreation Plan or Massachusetts Heritage Landscape Inventor Program, "Amesbury Reconnaissance Report";
4. Pending nominations in good standing to the National or State Registers:
    a) Primary Qualifying Elements shall include the following: buildings, other structures, and outbuildings located on the property; and
    b) Secondary Qualifying Elements shall include the following: sites and settings, objects, monuments, trees or any element of historical, architectural and/or cultural significance which indicates their contributory value in establishing historical context.

## 4. PROCEDURAL REQUIRMENTS

The following requirements shall be in addition to the general requirements for a Special Permit specified in Section X.J of this Bylaw.

a. Final Site Plan:
The application for HP-SP shall include a Site Plan in accordance with section XI.C.5 of the Amesbury Zoning Bylaw.
b. Additional Materials for Submission:

1. A detailed proposal for the restoration or preservation of the historic structure, including architectural drawings, building materials, cost estimates, and a registered architect's report on existing conditions and proposed restoration, rehabilitation or preservation measures;
2. A site survey and photo documentation necessary for historic inventory as per requirements of the Massachusetts Historical Commission;
3. Written approval from the AHC stating its support for the restoration, rehabilitation or preservation of the historic building(s), structure(s) or landscape and the appropriate methods to achieve it; and
4. If a total of four (4) or more residential units are being proposed on the site a proposed affordable (as defined in Section V.F subsection 2, 4, and 5 of the Zoning Bylaw) housing restriction and pertinent documents for minimum of one (1) unit or 15% of the total units in the project, whichever is greater.

## 5. DESIGN STANDARDS & REVIEW CRITERIA:

The Board shall use the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings and follow the guidelines established therein for rehabilitating Historic Buildings for review of the proposed reconstruction, rehabilitation or preservation of the historic building(s) or structure(s). The following General Design Standards shall be applicable in conjunction to those standards and guidelines for the rehabilitation, repair or adaptive reuse of existing historic structures as allowed under this bylaw:

1. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
2. Distinctive features, finished, and construction techniques or examples of craftsmanship shat characterize a historic property shall be preserved;
3. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, materials and other visual qualities. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;
4. Configuration of roofs that are important in defining the overall historic character of the building such as hipped, gambrel, and mansard; decorative features, such as cupolas, cresting chimneys, and weathervanes; and roofing materials such as slate, wood, clay tile, and metal, as well as its size, color, and patterning shall be preserved, repaired and restored;
5. Windows comprise a considerable amount of the historic fabric of a structure and thus deserve special consideration in preserving the historic character of the building

i. New window design shall have the same sash and pane configuration and other design details as the historic windows. Replacement windows shall have the same features including frames, sash, and muntin configuration and shall be compatible with the building's historic appearance and shall maintain, preserve and enhance the character-defining features of the structure;

ii. A character-defining window shall be repaired or replaced with a new window that conveys the same visual appearance as documented by historical evidence;

iii. Changing the historic appearance of windows through the use of inappropriate designs, materials, finished, colors or changes in number, location, size or glazing pattern of windows, through cutting new openings, blocking-in windows, and installing replacement sash that do not fit the historic window opening shall not be considered.

6. Existing windows, shutters, cupolas, barn doors and other unique historic elements shall be repaired, restored and incorporated into the proposed rehabilitation design;
7. Natural materials shall be used for all exterior finishes. Compatible substitute materials may be allowed provided they are approved by the AHC;
8. Driveways, walkways, or seating/recreation areas (e.g. patios) shall be shown and finished in gravel, cobble, brick, or alternative materials(s) approved by the AHC and Design Review Committee;
9. Existing stone walls and retaining walls shall be repaired and restored using natural materials. Other proposed site landscaping materials including fences and lighting shall be compatible with the historic fabric and character of the site;
10. More that 4 contiguous car spaces shall be screened by vegetative screening of shrubs at least five (5) feet in height and as approved by the board. Every two car spaces shall be separated by a six (6) feet landscaped island;
11. In order to protect the historic integrity of the structures and landscape, additions, alterations or changes to the architectural style, building footprint, exterior architectural features or construction of new structures shall not be allowed, unless such alterations do not adversely affect the historic integrity of the property, are supported by historical data or pictorial history, or are justified by an acceptable preservation approach, such as restoring a structure to a specific and significant time

period. Such supporting historic data and proposed reconstruction design shall be subject to review and approval by the AHC;

12. Additions to existing structures and construction of new structures, if permitted, shall be compatible and congruous with the characteristics, both visually and materially, of the historic structures and features, shall be differentiated from historic fabric, shall not diminish the integrity of the property, and shall not adversely affect the views associated with looking to or from the historic structures. Such additions or alterations shall not be allowed to portions of the building or structure visible from a public way or significant publicly owned land or a view shed or view corridors;
13. Historically appropriate exterior paint color schemes shall be used. Paint sampling and analysis, although not required, is recommended and can be highly instrumental in achieving a historically appropriate palette. In the absence of paint chemistry, color selections based on historic photographs and regional historic paint charts (e.g. SPNEA) are acceptable;
14. Each historic building shall display a marker or sign, not to exceed one square foot in area or as approved by the AHC, designating the date, name, and significance (if relevant), of the structure. The sign design, layout, placement, and message shall be approved by the Board, so as not to obstruct the building's architectural features, or detract from the overall appearance of the property; and
15. The Board shall review and approve visible accessories and equipment associated with the project, including, but not limited to: exterior light fixtures, utility meters/equipment, site furnishings, mailboxes, signage (including address numbers), and ornamental hardware. Mechanical and utility equipment shall, the greatest extent possible, be screened from view and hardware and fixtures shall be compatible with the historic character and image of the property.

**6. FINAL ACTION BY THE BOARD:**

**Findings Required**: In addition to the findings required under X.J, the Board shall make the following findings prior to issuing a HP-SP:

1. The historic character of a building, structure or the lot (s) shall be retained and preserved by the grant of the special permit. The removal of historic materials or alteration of features and spaces that characterize the affected lot(s) has not been proposed. The proposed renovation, repair or adaptive reuse preserves the historical and architectural features of the building(s), structure(s) or element(s);
2. The lot(s) shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the existing historic building(s) or structure(s); and its environment;
3. The proposed uses or the relief from the dimensional requirements are necessary to maintain the historic or architecturally significant building(s), structure(s) or elements(s) on the site on which is was originally constructed or to relocate it back to such a site;
4. The design standards under this bylaw have been incorporated in the reconstruction, rehabilitation or preservation of the existing historic building(s) or Structures(s) and the design of all new buildings or structures; and;
5. The proposed use will not generate negative impacts to the surrounding neighborhood or overall zoning district or that the mitigation of any negative impacts has been clearly established and so determined by the Planning Board.

**7. ISSUANCE OF BUILDING PERMIT:**

No building permit shall be issued until the approved plan endorsed by the Planning Board and signed by the City Clerk, is recorded in the Registry of Deeds and copies of recorded documents listed below have been provided to the Board:

1. Deeded Preservation Restriction, as per Ch.184, s.31-32 governing the proposed preservation of an existing building(s) or structure(s) shown of the Site Plan and that is granted a HPSP. Historic rehabilitation standards for these building(s) shall conform to the Secretary of the Interior's

"Guidelines for Preserving Rehabilitating, Restoring and Reconstructing Historic Buildings." In the event that the Mayor and/or Municipal Council do not approve the MGL Ch.184 designation, a permanent recordable Restrictive Covenant shall be required to protect the historic building(s) or structure(s) for the maximum extent allowed by law;

2. Any other Declaration of Covenants, Conditions and Restrictions, including, but not limited to , conservation rest4rictions or development rights easements, shall be recorded by the owner(s) against the property containing provisions consistent with the requirements and restrictions of the Special Permit; and
3. If four (4) or more residential units are proposed, then a minimum of one (1) unit of 15% of the total number of units on the lot, whichever is grater, shall be affordable in perpetuity and as defined in Section V.F subsection 2, 4 and 5 of the Zoning Bylaw and meet the requirements of M.G.L. Ch. 40B s.20-23, as amended from time to time, and shall have to satisfy the necessary requirements to allow those units to be counted towards the affordable housing inventory in Amesbury. Documents pertinent to such restrictions must have been reviewed and approved by the Board and the City of Amesbury;

**8. SEVERABILITY:**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the City's Zoning Bylaw.

## K.1. Residential Conversions:

In the R-8 and R-20 Zoning Districts a special permit may be granted by the Board of Appeals for the conversion of one-family dwellings into two-family dwellings and of two-family into three-family dwellings in accordance with the following provisions:

1. In no instance shall the lot be less than 12,000 square feet.
2. The minimum lot frontage beat least 80 feet in the R-8 zone, and not less than the required minimum in all other zones.
3. There be at least a minimum off-street parking for three (3) vehicles.
4. All other dimensional requirements of the zoning district on which the conversion is proposed are met.
5. The maximum number of dwelling units allowed in any previously existing one-family dwelling shall be two, and two-family dwelling shall be three.
6. In instances where the Board of Appeals is requested to permit three (3) dwelling units in a residential structure the Board of Appeals shall require a Site Plan that indicates off-street parking for at least five (5) vehicles; and said plan shall indicate that no designated off-street parking spaces are located in the required front yard setback of the zoning district in question.
7. For all conversions, all health and safety regulations of the City and Commonwealth shall be met, and a report to that effect shall be obtained by the applicant from the Building Inspector.
8. No applicant for a residential conversion special permit shall apply to the Building Inspector for a building permit or occupancy permit, unless and until a special permit for conversions is approved by the Board of Appeals. Further, all building permits and occupancy permits issued by the Building Inspector shall be in conformance with the conditions, if any, stipulated in the special permit approval.
9. All proposals for conversions are subject to the special permit requirements and procedures set forth in Section X.J of this Bylaw.

## K.2. In-law Apartments:

The Special Permit shall be issued for an in-law apartment subject to the following requirements:

1. The special permit will be issued for a period of five (5) years and will be renewable upon request providing the applicant continues to meet the requirements of the special permit. The special permit shall expired if the conditions of approval are not maintained or the in-law apartment ceases to be occupied as provided herein;

2. Where new kitchen appliances have been added, they shall be removed within six (6) months of the expiration of the special permit and the Building Inspector shall report such removal to the Zoning Board of Appeals;

3. There shall not be separately metered electric or water service to the in-law apartment;

4. All safety, health and building codes are to be met;

5. There shall be no boarders or lodgers within either unit of the dwelling with an accessory in-law apartment;

6. There shall be parking for one (1) additional car for the in-law apartment;

7. If the in-law apartment becomes vacant, the owner must report the vacancy to the Building Inspector within 60 days and the owner will be given six (6) months to remove all the kitchen appliances.

## L. Planned Neighborhood Development (PND) Districts:

### 1. Purpose

a. Provide a mixture of land usage within the City of Amesbury.

b. Allow maximum flexibility for the provision of housing in Amesbury.

c. Allow greater density and intensity of residential development than would normally be allowed provided that the land usage can be shown to be in the public good.

d. Encourage historic preservation, infill development and adaptive re-use of historic structures in applicable zoning districts provided that the land usage can be shown to be in the public good.

e. Allow for the creation of new multi-family structures, conversion of existing, or expanded industrial or commercial buildings to multi-family residential buildings and allow other non-residential uses compatible with the character of the surrounding neighborhood.

f. Encourage the development of mixed-used buildings that are consistent with the architectural character of the historic commercial and residential areas in Amesbury.

g. Improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment; and

h. Promote development consistent with the City's current Master Plan and Historic Preservation Plan.

2. **Establishment of Sub-Districts:** The PUD zoning district contains three (3) sub-districts as follows and shown on Exhibit 1 attached hereto:

a. PUD – Village Center (PUD-V): The areas within the PUD zoning district along Main Street and Noel Street.

b. PUD – Waterfront (PUD-W): The areas within the PUD zoning district along Merrimac Street along the Merrimack River and including Bailey's Pond.

c. PUD – Gateway (PUD-G): The areas within the PUD zoning district along Summit Ave and Rte. 150 Extension.

3. **Applicability and Permitted Uses**: A Planned Neighborhood Development (PND) shall be allowed only in the Planned Unit Development (PUD) zoning district shown on the Official Zoning Map. The following uses shall be allowed and require Site Plan Review in addition to other permits as listed in Section V.D:

    a. Single Family, Multi-family dwellings and attached dwellings of all types; provided, however, that except for preexisting buildings or structures on a lot, all multifamily dwellings and attached dwelling units shall be limited to four (4) dwelling units for each building or structure. The Planning Board may grant a special permit to allow a) structures with more than four (4) dwelling units; and b) dwelling units located above ground-floor commercial uses in existing, proposed or expanded multi-storied buildings; and

    b. All other uses, including mixed uses, permitted in the PUD and listed in Section V.D. - Table of Use Regulations.

4. **Dimensional and Density Regulations:**

    a. Dimensional and Density Requirements – All proposed projects shall be required to meet the requirements of Section VI and as stated under the Table of Dimensional and Density (TDD) Regulations. Exceptions to the requirements of Section VI may be allowed by the Planning Board by grant of special permit pursuant to Section X.J as follows:

    i. Only in the PUD-W sub-district: Upon written application duly submitted to the Planning Board, the Board in appropriate cases, subject to the applicable conditions set forth below and elsewhere in this Bylaw and subject to appropriate conditions, safeguards and limitations, may grant a special permit to allow a) the minimum lot area calculations to be modified as stated below; or b) requested relief from height, front, side and rear yard setback requirements for existing historic buildings in the PUD-W sub district.

        1. For the purpose of this Section, a structure shall be considered historic provided it meets the criteria of Section XI.J2.3;
        2. The special permit application includes information required under XI.J2.4.b.1 through 3;
        3. The proposed building design is compatible with the provisions of XI.J2.5 to the extent as determined by the Board;
        4. the minimum lot area calculations shall (to) include any portion of a lot at or above the seasonal mean high water line (as defined by a study of all relevant, federal, state and local data) dedicated to a marina, boatyard, or other water dependent use, provided a permanent public access easement is deeded along the waterfront for a continuous bike and pedestrian pathway and connected to the closest public way or public land.
        5. At the time of making application to the Planning Board for this special permit, the calculations for land area below the seasonal mean high water line

shall be submitted and such land shall be shown on the existing conditions plan.

6. The legal documents associated with the public access easement and a plan showing the easement location shall also be submitted with the application.

ii. Only in the PUD-G sub-district:

A) The overall density shall be determined by preparing a "Yield Plan" drawn to scale that clearly indicates the number of buildable residential lots if the site were developed as a conventional subdivision consistent with the Amesbury's Subdivision Rules and Regulations. For the purpose of density determination, the minimum lot size shall be 15,000 sf. At least 50% of the tract(s) shall be left as public open space. No more than 25% of the open space shall include protected environmental resources, buffers to these resources and slopes greater than 25%. Based on the sketch plans, drawings and any other material the applicant submits relevant to the tract under consideration, the Planning Board shall make a determination as to the number of conventional lots that can be achieved on the proposed site. A Cluster Plan shall also be prepared as per standards outlined in XI.D.3.a and as per density bonuses allowed below. The Board may then grant a special permit to allow a "cluster residential plan – CRP" with the following density bonus –

1. If the proposed open space is 50% as required, the permitted maximum density allowed shall be number of conventional lots, as determined by the Board, times 130%;

2. If the proposed open space is increased to 60%, the permitted maximum density allowed shall be number of conventional lots, as determined by the Board, times 140%; and

3. If the proposed open space is increased to 70%, the permitted maximum density allowed shall be number of conventional lots, as determined by the Board, times 150%

B) When only single family residential structures are proposed, the minimum lot size for the proposed single family residential lots shall be 10,000 sf in the CRP.

b. Parking: A Parking Plan shall be submitted pursuant the provisions of Section VII and show the required number of parking spaces for each use in the proposed development. Parking for visitors shall be provided at a minimum of 10% of the parking required for the residential uses shall be for visitors in addition to that required by Section VII. Bicycle racks shall be provided for a minimum of ten (10)bicycles and installed as approved by the Board in a safe and convenient location easily accessible from the open space, park and trails;

c. Usable Open Space: An application for a PND shall be required to provide usable open space as per requirements of Section XI.H1.16. Except projects that only

propose alteration, extension or expansion of existing mill buildings, in all such developments where sixteen (16) or more units per acre are proposed, an area no less than 5,000s.f. shall be incorporated within the usable open space for a neighborhood public park and outdoor recreational purposes of sufficient area and in a location to be determined by the Board.

d. Number of dwelling units: The maximum allowable number of units shall be determined by the Planning Board during the Site Plan Review process. The decision of the Planning Board in this regard shall consider:
   1. Size of the dwelling units, the arrangement of buildings on the site and other proposed uses,
   2. Physical limitations of buildings and lot;
   3. Provision of off-street parking, including visitor parking;
   4. Total percentage of usable open space and outdoor recreational amenities provided;
   5. Traffic conditions in the general area;
   6. Provision of off-site public utilities and drainage improvements; and
   7. Other conditions specified by the Planning Board.

e. Chapter 91 Commonwealth and Zoning Requirements: Any Commonwealth Chapter 91 requirement for the provision of publicly-accessible open space, facilities of public accommodation, pathways along the riverfront edge or the like shall be fully complied with. No more than 50% of the open space area required by this Section shall be part of the public open space required under Chapter 91 within the 100 foot buffer area of the Merrimack or Powow River. No building or habitable structure shall be permitted within the lesser of (i) fifty (50) feet of the high water mark of the Merrimack or Powow River, or (ii) the limits of the water dependent use zone under Chapter 91.

5. **Application and Procedural Requirements**: In addition to all other applicable provisions elsewhere in this Bylaw, the following procedural requirements are required:

   a. Pre-Application Review: Potential applicants are encouraged to meet with the Planning Board and describe their project with sufficient information on site layout, building design, any traffic mitigation and other unique aspects of the project in a pre-application conference early in the project design phase.

   b. Application and Fees: An application for PND shall be submitted pursuant to the provisions of Section XI.C to the Planning Board with the necessary application fees and with all materials required for a Site Plan Review and fully described in Section XI.C of this Bylaw and any additional information requested during the pre-application. If a special permit is also required, then an application shall be submitted and administered pursuant to the provisions of Section X.J of this Bylaw. Applications and requests for changes to an approved PND site plan shall

be administered pursuant to the provisions of Section XI.R.17, subsection 2, 3, and 4;

c. Additional application materials: Copies of all prior permits issued along with approved site plans shall be submitted with the new application;

d. Incomplete Application: A Site Plan Review application that is not complete shall be returned and no action shall be taken by the Board until all required information is included with the application, and

e. Master Site Plan Review: A Master Site Plan shall be prepared and submitted for the for the proposed PND in its entirety, even if such property(ies) is/are developed incrementally over an extended period of time. The following information shall be included in or provided with such plan:
   8. The Master Plan shall illustrate both the initial development proposal as well as developments intended to be implemented over time. The Master Site Plan submitted for SPR shall include the submittal requirements in Section XI.C.5,
   9. A narrative and illustrative submittals on urban design objectives and architectural design standards (including all buildings, open space improvements and proposed signage) shall be submitted;
   10. The Master Plan shall include a context map indicating adjoining properties and streets;
   11. The Plan shall include the proposed sequence of development and an illustrative timetable for development;
   12. The Plan design should be comprehensive and include the following information: the proposed location of all streets, walkways, and open spaces, proposed topography, lot layout, landscaping, signs, lighting and utilities; building locations, design and heights, presented at a level of conceptual design plans; parking locations and amounts, including the manner in which parking requirements will be met prior to full build-out of the development; required easements and deeded areas; view corridors to be fully established and preserved from public right of way toward the water;

6. **Design and Performance Standards**

a. The proposed PND shall meet the criteria listed under Section XI.C and Section X.J, if applicable, of this Bylaw. In addition, the following shall also apply:

b. The proposed building design and layout in the PND within the PUD-V sub district shall be subject to the provisions of Section XI.H2.8.2 to the extent that they do not conflict with the requirements of TDD in Section VI of the Bylaw;

c. The proposed multi-family residential (four or more) PND within the PUD-G sub-district shall be subject to the provisions of Section XI.Q.10.5 a through e of the

Bylaw and in case of conflict shall override provisions elsewhere in the Bylaw. All other residential PND within the PUD-G sub-district shall comply with the provisions of XI.D.6 &7, 8 and 9;

d. The project shall be consistent with the Design Guidelines established by the Planning Board for PND, as amended; and

e. Signs: All signs within the PUD district shall comply with the provisions of XI.Q.10.5.q.

f. Recreational trails and bikepaths: The minimum width for recreational trails and bikepaths shall be eight (8) feet. Unless stated otherwise, the paths will be finished with stone dust or otherwise as required by the PGA.

## 7. Plan Approval Criteria

1. An application for a PND that has been submitted in accordance with the procedures listed in this Section shall be reviewed by the PGA to determine if the project is consistent with the Performance and Design Standards as stated herein and if the Plan shall be subject to conditions of approval as determined by the PGA. The Plan Approval shall be subject to the following criteria:

   a. The project is consistent with the purposes set out in paragraph XI.L.1;
   b. The project is consistent with the review criteria of Section XI.C;
   c. The site layout and building designs provide convenient and efficient pedestrian access to surrounding neighborhoods and facilities;
   d. Provides a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities;
   e. Encourages buildings with a pedestrian oriented scale and design;
   f. The Board shall adopt recommendations from other boards and committees regarding, among other things, the architectural value and significance of the site, building, or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area;
   g. In the case of new construction or additions to existing buildings or structures, the Planning Board shall consider the appropriateness of the size and shape of the buildings or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity;
   h. In appropriate cases, impose dimensional and setback requirements in addition to those required by this title, provided no further zoning relief is required. The Planning Board shall not consider interior arrangements not subject to public view; and
   i. The project has been reviewed and approved by the Planning Board as to its design and architectural consistency.

8. **Severability**

If any provision of this Section XI.L is found to be invalid by a court of competent jurisdiction, the remainder of Section XI.L shall not be affected but shall remain in full force. The invalidity of any provision of this Section XI.L shall not affect the validity of the remaining Bylaw.

## M. Light Manufacturing Special Permit (CBD & C):

1. Purpose: To provide space for light manufacturing and incubator light manufacturing facilities within the Central Business District (CBD) and Commercial District (C) in such a manner as to utilize existing structures while preserving the integrity and appearance of the district(s). For the purposes of this special permit, Light Manufacturing shall be the assembly or manufacture of materials, goods, or products from previously prepared materials, parts, or finished products. Further, to preserve the commercial integrity of the district(s), light manufacturing is limited to all structures in lawful existence for at least ten (10) years at the time of applying for the special permit.

2. Applicability: The Planning Board as a Special Permit Granting Authority may grant special permits in the CBD & C that fulfill the requirements set forth below as well as those in Section X.J, Section VIII, Section XI.G, and all other pertinent sections of this Bylaw. In addition, application must comply with all Site Plan requirements and obtain approval by the Planning Board as a condition of the special permit.

3. Procedure Requirements: The following requirements shall be in addition to the general requirements for a special permit as outlined in Section X.J of this Bylaw:

a. No light manufacturing activities shall be allowed in public view, storefront windows, open air, etc.

b. Light manufacturing activities in the Commercial District shall not occupy more than 50% of the existing net floor space of the entire structure, not to exceed 25,000 square feet. The minimum lot size shall be 100,000 square feet.

c. Light manufacturing activities in the Central Business District shall not occupy more than 60% of the existing net floor space, not to exceed 10,000 square feet.

d. The use must be carried on strictly within the principal building.

e. No mixed use of light manufacturing and residential shall be allowed in the same building.

f. Light manufacturing uses which require smelting or chemical reduction or which might constitute a nuisance due to odor, fumes, dust, vibration, heat, glare, noise or other nuisance characteristics are not intended to be included within the definition of light manufacturing and will be reviewed under XI.G.

g. Light manufacturing uses shall not occupy more than 75% of net floor space of each existing commercial unit.

## N. Regional Commercial Zoning District – Development Standards:

1. Purpose: To provide development guidelines for planned commercial centers that are accessible from major City and/or regional roadways; and to integrate said development consistent with their immediate surroundings.

2. Applicability: The Planning Board, as Special Permit Granting Authority, may grant a special permit for those uses in the Regional Commercial Zoning District that require said permit. In addition, the application must comply with all Site Plan requirements of this Bylaw, and receive Site Plan approval as a condition of the special permit.

3. Permit Review Criteria: The following requirements shall be in addition to the general requirements for a special permit as outlined in Section X.J or for Site Plan review in Section XI.C of this Bylaw.

a. Due to the scale and visual prominence of the development permitted in the RCZD district, design elements, approved by the Planning Board, shall be provided to mask, screen, or otherwise conceal from view all flat roofs. However, all buildings having a width of 50 feet or less shall be required to have roofs with an angle of incline of at least 30%.

b. All loading areas shall be designed such that the loading docks are at least five feet inside the building line, unless such loading docks are not visible from any public way, are located towards the rear yard of the property and are visually screened by dense evergreen landscaping from adjoining properties. This landscaping shall not replace but shall be in addition to that required for buffers under Site Plan Review.

c. To provide an adequate visual screen the Planning Board may require fences or earthen berms in addition to natural materials and plantings required by Site Plan Review.

## O. COMMON ACCESS DRIVEWAYS (CAD):

### 1. Purpose

The purposes of providing access to more than one dwelling unit over a Common Access Driveway (CAD), rather than by individual driveways for each dwelling unit, are:

a. to enhance public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public, particularly arterial streets as defined in the Subdivision Rules and Regulations;
b. to preserve, protect and enhance environmentally sensitive land, such as well recharge areas, wetlands and floodplains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious surface;
c. to encourage the protection and preservation of significant natural features and vistas.

### 2. Applicability

CADs are allowed by special permit issued by the Planning Board provided they meet the following requirements:

a. The CAD shall not be allowed if it would serve as the primary means of access to property which is publicly-controlled or which serves a public purpose.
b. The CAD shall not be used to satisfy zoning frontage requirements except as provided by a waiver under the Cluster Residential-, Planned Unit Development-, or Historic Preservation-Special Permits.
c. The CAD shall: serve no more than three (3) dwelling units for single family detached structures, each with the approved frontage on either an existing or proposed public way or; within a CRSP where the Board may allow a CAD to be used to serve a multifamily structure containing up to four (4) dwelling units with no more than (14) fourteen bedrooms in total. The Board may also permit access to and from the CAD for up to two (2) abutting dwelling units located along the intersection of the CAD and the public way provided vital access to the public way is reasonably available.
d. Unless approved within a CRSP, the CAD shall access the property over the frontage of at least one of the lots being served by the driveway.
e. The owners of the properties to be served by the CAD must provided evidence to the Building Inspector that they have rights, either by deed or perpetual easement, to the CAD.
f. The CAD shall not become a public or private way maintained by the City. Further, the City of Amesbury shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pickup or police patrols along a CAD, unless by contract duly entered into by the City and all landowners served by the CAD. Further, a covenant shall be placed on the property stating that the owners of property served by the CAD shall not petition the City for accepting the way as a public way and that it shall always remain a private way.
g. Mail boxes for all the units being serviced by the CAD shall have a mailbox located along the public right-of-way. The location and height of the mail boxes shall be as per current rules and regulations of the United States Postal Services. A granite post(s) no greater than forty eight (48) inches in height shall be used to support the mailboxes, which shall be uniform in appearance, and the post or box shall indicate the street number address assigned to each lot served by the CAD.
h. A permanent storage shed, not to exceed forty (40) square feet in floor area and five (5) feet in height, shall be constructed and used for the temporary storage of household trash and recycling for all lots being served by the CAD. The exterior walls of shed shall be sided in natural wood materials or a cement-fiber material. It shall have no openings directly facing the public way and shall be located within the CAD easement or parcel, directly along the public right-of-way and the entrance to the CAD. Mailboxes, as described in XI.O.2.g, may if the Planning Board so approves, be provided on said storage shed.

i. The location and construction of a CAD shall minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees of over 12" caliper and other natural features of special significance to the greatest practicable extent.

j. A CAD shall have a minimum surface width of sixteen (16) feet, exclusive of two foot shoulders on either side cleared of brush and trees.

k. No CAD shall be allowed to be constructed off any Cul-de Sac or Dead End of a Public Way or way within an approved definitive subdivision plan. No CAD shall be connected or attached to any other private driveway. No CAD shall be extended without prior approval o the Planning Board.

l. To provide better traffic safety and reduce noise and visual impacts of traffic on abutting properties, the Planning Board may require CAD to be set back from abutting property lot lines and/or screened with a buffer of trees, shrubs or any combination thereof.

m. The Planning Board may require turnarounds for emergency vehicle be provided with a minimum length of 30' and width of 18'.

n. The landowners of all properties served by a CAD shall be granted a right-of-way. Such right-of-way shall be recorded by the Essex County Registry of Deeds within ninety (90) days of endorsement by the Planning Board and a 30 day extension may be provided in writing by the Board; or within seven (7) days prior to commencement of construction, together with the following:

1. Unless waived within a CRSP, the CAD shall at no time be used to satisfy frontage requirements under the zoning ordinance;
2. The CAD shall at not time become the responsibility or liability of the City of Amesbury;
3. Each landowner served by the CAD shall be liable and responsible in whole for the repair and maintenance of any portion of the CAD to which they have the exclusive Right-of-way, such as a spur serving solely one parcel;
4. Each landowner served by the CAD shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the CAD to which more than one landowner holds a right-of-way.

o. A covenant shall be entered into between the owner or developer and the City in a form acceptable to the Planning Board prohibiting the issuance of an occupancy permit until such time as the CAD has been constructed in accordance with the approved plan and certified in accordance with subsection XI.O.4.

3. **Design Standards**

Proposed CAD shall comply with the Design Standards listed in Section 7.09.K of the Amesbury Subdivision Rules and Regulations.

4. **Construction Standards (12/11/2007)**

Construction of the CAD shall conform to all requirements of the City of Amesbury's cub-cut policy and be supervised by the Planning Board through its inspection consultant. Upon completion, a Registered Professional Engineer and/or a Registered Professional Land Surveyor as applicable shall certify in writing to the Building Inspector/Zoning Enforcement Officer and the Planning Board at completion that the driveway and drainage structures were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a Registered Professional Land Surveyor and a Registered Professional Engineer as applicable. As-built plans shall include the locations of easements for all drainage structures including swales and must be provided to the Department of Public Works, with a copy to the Planning Board, within 30 days of the completion of construction of a CAD. The Building Inspector shall not issue a final Certificate of Occupancy for the last dwelling unit served by a CAD unless the Building Inspector has obtained a certificate from the Planning Board stating that the Board is satisfied that access, construction of the CAD, installation of

necessary utilities and site restoration are in full compliance with the approved plans and the Special Permit or until the Board's consultant confirms in writing that there is surety amount being held by the City to complete outstanding issues.

5. **Surety**

An acceptable amount and form of surety for construction of the Common Driveway and drainage system shall be agreed to by the Planning Board and the applicant prior to approval of the Special Permit. The Planning Board's inspection agent shall inspect the site and if it finds that all construction, including but not limited to grading, loaming and seeding, clean up of earth materials and construction debris is complete, it shall so certify to the Planning Board. Thereafter, the Planning Board may release surety held under this Section.

## P. Establishment of Neighborhood Conservation Districts:

**1. Purpose:** The Amesbury Municipal Council finds it necessary to enact this article under MGL 40A Section 5 for the following purposes:

1. to preserve, conserve and protect the beauty and heritage of the City to improve the quality of its neighborhoods through identification, conservation and maintenance of areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City;
2. to prevent adverse influences to this purpose;
3. to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the City a more attractive and desirable place in which to live and work;
4. to encourage consideration of the recommendations of the Amesbury Preservation Plan;
5. to encourage attractive and viable development projects within Amesbury's neighborhoods.

To achieve these purposes, the City may designate neighborhood conservation districts to be administered as set forth in Section XI.P.

**2. Definition:**

Neighborhood Conservation Districts (NCD): A NCD is established to preserve, conserve and protect the health, safety, economic, cultural and general welfare of the public by encouraging the conservation and enhancement of Amesbury's neighborhood resources. It is an overlay district shown on the Neighborhood Conservation District Map, as described in Section XI.P.8. A NCD is focused on protecting the quality of life within the neighborhood by encouraging design that is complementary to the cultural, historic and environmental resources of the area. A NCD is intended to create a neighborhood of stability, comfort, local identity, and livability.

**3. Designation of a Neighborhood Conservation District (NCD):**

The designation of a NCD is intended to accommodate unique land use, urban design, and other distinctive characteristics of a neighborhood and encourage flexible but consistent design review for new construction, including all additions, alterations or extensions.

Pursuant to Section III.E. of the Amesbury Zoning Bylaws, a NCD may be nominated to the Municipal Council by the Mayor, a member of the Municipal Council, a majority of the Planning Board, or 150 registered voters. A nomination of a NCD to the Municipal Council is forwarded to the Planning Board for a public hearing within forty-five (45) days of filing the request or petition. Included in the application for designation, the Applicant shall submit a list of all property owners, map of the proposed NCD, a detailed narrative report on the specific cultural, historic and environmental significance of the proposed NCD, as well as support signatures of at least 51% of the property owners within the proposed NCD.

Prior to the public hearing, the Planning Board shall transmit copies of the application and report to the Design Review Committee, Historic Commission, and the Office of Community and Economic Development for its considerations and comments. At the hearing the Planning Board, by a majority vote, may approve any NCD it determines to

be eligible based on the criteria listed in XI.P.4. Upon approval of the application, the Planning Board shall submit a final report to the Municipal Council. Upon eligibility determined by the Planning Board, final designation of a NCD shall be by order of a two-thirds vote of the Municipal Council.

**4. Eligibility Procedures:** An area may be designated eligible for a conservation district if the Planning Board determines that it possesses form, character and visual qualities derived from a combination of topography, vegetation, land use, scenic quality, architecture, historic features, or places of natural and cultural significance that create a unique neighborhood identity. Importantly, in the instance where many small neighborhoods may be collectively defined by the criteria listed below, a NCD may represent a group of neighborhoods in order to better organize neighborhood planning efforts. Moreover, these larger areas may enhance the City's capital improvement planning, coordinate housing rehabilitation programs as well as to focus land use & zoning efforts at the neighborhood scale.

In assessing the eligibility of a NCD, the Planning Board should consider whether the proposed NCD's is strongly associated with at least two (2) of the following:

1) importantly associated with one or more historic persons or events, or with the architectural, aesthetic, cultural, political, economic, or social history of Amesbury or the Commonwealth or;
2) historically or architecturally significant (in terms of period, style, method of construction) either by itself or within the context of a group of structures;
3) distinctive natural resources such as lakes, ponds & wetland areas that represent significant land use, recreational or environmental elements for the area.

**5. Special Permit Review Procedures:** Following the acceptance of a designated NCD, an Applicant or property owner may request a Special Permit issued from the Planning Board (hereafter "Board") seeking any of the following:

a. A reduction up to 50% in front, side or rear yard setbacks (as listed in Section VI.B) to complement the existing neighborhood setbacks to protect sensitive cultural, historic or natural resources;

b. Any waiver of the Design Standards required in the Amesbury Subdivision Rules and Regulations;

c. A reduction of the Minimum Open Space required to 30% within an Industrial District if adjoining land within the tract is dedicated for a stated public purpose such as a park, greenway or conservation area within the Neighborhood Conservation District;

d. A waiver from dimensional requirements within the Water Resources Protection District (as listed in Section XV) provided all of the following:

- Minimum Lot Area: The total area of the property shall be at least 5 acres;
- Conservation Restriction: A permanent, deeded Conservation Restriction is placed on an area of at least 75% of the property and: it includes at least the first 400 feet from the mean high annual high water mark or upper boundary of the bank, whichever is the lower elevation, of the Powow River and Tuxbury Pond, and at least the first 200 feet from the mean high annual high water mark or upper boundary of the bank, whichever is the lower elevation, of Meadowbrook Pond and Lake Attitash; it includes any and all wetlands or tributaries associated with the WRPD; no disturbance as defined under Section XV.C is permitted within this area; and a management, ownership and use plan is submitted that is consistent with the purposes of the WRPD. The remaining 25% of the property shall represent the developable area.

- Disturbance: The area of disturbance, as defined under the Section XV.C. of the WRPD, including stormwater management systems, is not permitted outside the developable area of the property.
- Impervious Area: Including roadways, utilities and other infrastructures, no more than 15% of the total developable area shall be impervious with not more than 1500 SF of impervious area permitted per lot for single family structures, of 15% of the total developable area for attached family structures;
- Wetlands & Floodplains: No wetlands (as defined by MGL Chapter 131, Section 40) or floodplain alterations are permitted;
- Other: All other provisions of the WRPD shall apply;

1) A Common Access Driveway, CAD, (Section XI.O) to be used to satisfy zoning frontage requirements provided the following:
   - Density Requirements: The overall density of the development within the NCD shall not exceed 1 unit per 40,000 SF in the R-8 & R-20 Zoning Districts and the minimum lot area listed in Section VI.B for all other Zoning Districts. Note, the Board may also grant a bonus lot, not included in the density requirement, for the purpose of establishing a building lot to be used as affordable housing unit as defined under Section V.E or for use as a historic preservation lot as described under Section V.E:
   - Dimensional Requirements: The dimensional requirements of the proposed lots shall be in conformance with Section XI.D.6;
   - Open Space: A permanent Conservation Restriction shall be placed on an area located within the NCD of not less than 75% of the area used for development. Note, coterminous Conservation areas are desired but not required for the development. In instances where public access and/or ownership may be desirable to the neighborhood, the Board may require conveyance of the open space as a condition of the Special Permit. Unless determined otherwise by the Board, the area designated for conservation purposes shall; not contain more than 50% wetlands, floodplains or slopes greater than 20%; shall be restricted to passive recreational uses; and shall be maintained in its natural state with open access to the neighborhood or general public;
   - Alterations or Extension of CAD: No extensions or further residential development is permitted along the CAD unless permitted by the Board under the full provisions of the Amesbury Subdivision Rules and Regulations;
   - Design Standards: All other provisions of XI.O shall be in required with the issuance of the Special Permit.

   Upon request of the Special Permit, no application for a building permit for new construction, including additions, alterations or extensions, shall be granted until reviewed by the Planning Board, including advisory review by the Design Review Committee, under Section X.J. & M., XI.C.6.d. and the Amesbury Design Guidelines. All uses allowed in the underlying zoning district are permitted within the NCD. Upon completing the design review, the DRC will forward its recommendations to the Planning Board for final approval within sixty (60) days of the public hearing.

**6. Factors Considered by the DRC:** The DRC shall review all new construction as it affects the overall character of the neighborhood. For example, exterior architectural features such as roof lines, building placement and massing, setbacks and other site features. Refer to Section II & III of the Amesbury's Design Guidelines and XI.C.6.d. of the Amesbury Zoning Bylaws for specific review guidelines. Accordingly, the Applicant shall submit the following application requirements:

6.1. If existing structures are located on the property, a plot plan, scale 1" = 20 feet, of the existing site, including a dimensional footprint of all existing buildings, parking areas and driveways shall be shown.

6.2. A plot plan, scale 1"= 20 feet, of all proposed construction, parking and driveways, fence lines & landscaping. Indicate the removal of mature trees.

6.3. Exterior building elevations for the front and sideyards, including building and roof materials, height, colors, and window treatments.

After advisory review, the DRC shall forward its recommendations to the Planning Board as a technical report on the suitability of the proposed project.

**7. Special Permit Appeal Procedure:** Any appeal to a final decision of the Planning Board may be appealed to the Zoning Board of Appeals as outlined under Section X.H., I. & J. of the Amesbury Zoning Bylaws.

**8. Brown Hill Neighborhood Conservation District & Map:**

**Identification of Neighborhood Resources:** On Thursday January 10, 2002 nearly thirty (30) residents from the Brown Hill area participated in a workshop and discussion of neighborhood planning issues. Initially, groups of five to six residents were divided into groups and provided assessors maps of the neighborhood as well as colored markers. Using the markers, the groups were asked to identify positive, negative and threatening attributes of their neighborhood. After completing the exercise, the groups then selected a representative to present their findings and a recorded a composite list as follows:

**Positive Attributes:**

☒ Scenic views from Atlantic, Bay and Dewey St.
☒ Safe place for kids
☒ Wooded area behind Bay and Dewey St.
☒ Street trees along public way
☒ Stone wall along Norwood St.
☒ Rural feeling due to open space
☒ Historic house at Elm and Monroe St. (Kray House)
☒ Dead-end streets
☒ Proximity new Riverwalk project & Powderhouse park
☒ Views of Merrimack River and Whittier Bridge
☒ Sunsets and sunrise
☒ Low traffic flow
☒ No sidewalks

**Negative Attributes:**

☒ Bay St. access, radius, and steep grade as well as maintenance
☒ Dead-end streets -one access point to Bay and Dewey St.
☒ Lack of turnaround on Bay and Dewey St.
☒ Dead and dying street trees
☒ Bus stop

☒ Traffic hazards
☒ Madison & Monroe intersection
☒ Grades on Bay and Atlantic St.

**Needs / Desires:**

☒ Sidewalks
☒ Intersection improvements at Bay St.
☒ Better maintenance of Bay St. in inclement weather
☒ Greenway connections to Collins St. Park
☒ Secondary access to hilltop
☒ Street Tree maintenance and new trees
☒ Do not connect Bay St. to Wood Ave.
☒ Preserve the "Kray House"
☒ Preserve the wooded area behind Dewey and Bay St.

In summary, residents that participated in the mapping exercise seemed clear in their desire to preserve as much of the remaining open space within the neighborhood as possible. Additionally, they also expressed a clear desire to improve the hazardous Bay /Elm St. Intersection. In contrast, while most residents residing on Bay and Dewey St. disliked the existing access at Bay St., there is no consensus as to whether a secondary access road would improve the quality of life of the hilltop neighborhood. This is probably due to the understanding of most residents that the rural and isolated feeling of living on the hilltop is largely due to the dead-end streets. Other than the preservation of open space and improving the access, the residents generally agreed on the issues of tree planting and road maintenance.

**Land Use Regulations and Smart Growth:** After identifying these attributes, the neighbor residents met on Thursday March 7th, 2002 to participate in a discussion of the existing zoning regulations. Included in the discussion, the City Planner, Nicholas Cracknell, presented an overview of the land development patterns of the Brown Hill neighborhood since 1900, and the incremental change that has occurred over this period. For example, in 1953 nearly 50 percent (25 acres) of the 52 acre neighborhood was undeveloped open space. In contrast, by 1988 this area was reduced to less than 19 acres and now stands at less than 15 acres in 2002.

Since 1953 the housing density in this neighborhood has increased nearly two fold with most development being single family residential use. Understanding the zoning of this district is currently R-8, residential requiring 8000 SF lots, the remaining open space would conservatively support over twenty new single family homes, along with the required road and drainage systems. Interestingly, the neighborhood currently houses the nonconforming "Madison Arms" multifamily structure that contains 18 units on less than 18000 SF. Thus, it remains a possibility that a developer may submit a comprehensive permit within the open space to construct many more units than the zoning currently permits.

Generally speaking, neighborhood residents felt that while some small-scale limited development was probably in the future, any large scale developments would require extensive land acquisition as well as infrastructure repairs. In any case, preservation of the open space and rural character of the neighborhood was imperative to keeping Brown Hill as a "great place to live".

**Neighborhood Conservation District:** As articulated by the majority of residents who participated in the two meetings, preserving the unique cultural, historic and environmental characteristics of the Brown

Hill neighborhood was essential to preserving their unique quality of life. Accordingly, the concept of establishing a Neighborhood Conservation District, NCD, was discussed at the February 7th meeting.

The purpose for Brown Hill NCD was the following:

- ☒ Assist in establishing permanent and contiguous public open space within sensitive areas of the neighborhood;
- ☒ Improve access and utilities to existing development;
- ☒ Discourage development along steep vegetated slopes;
- ☒ Utilize existing infrastructure and public services;
- ☒ Provide additional housing growth opportunities;
- ☒ Encourage historic preservation and design review;
- ☒ Communicate neighborhood concerns with the City;
- ☒ Encourage attractive and viable development projects;

**Eligibility Procedures:** In reviewing the work from the neighborhood residents over the past four (4) months, the eligibility procedures listed under Section XI. P.4. have been met. Specifically, the inherent Victorian architectural style of most residential structures along Elm, Bay and Atlantic St. illustrate the ornate and detail-oriented period of construction of the late 19th century when Amesbury's many carriage industries fueled industrial, commercial and cultural development of the village center. Additionally, significant portions of undeveloped forested land remain behind these older homes along the crest of Brown Hill. Although this undeveloped land has continued to decline in area since its use as farmland at the turn of the century, it still remains an important natural resource from which the neighborhood experiences a profound sense of rural character and tranquility within the village center. Thus, significant architectural heritage coupled with a central and unifying band of contiguous undeveloped forest land, make Brown Hill an appropriate area for a neighborhood conservation district.

**District Boundary:** As shown on the Amesbury Zoning Map, the Brown Hill Overlay District (BHOD) is bounded by Elm St., Collins Ave., Madison St., and Monroe St.

**Permitted Uses:** The Brown Hill Overlay District (BHOD), as shown, is superimposed on an underlying R-8, Zoning District. Additionally, within the BHOD a Special Permit may be issued by the Planning Board all uses listed in Section XI.P. of the Zoning Bylaws.

**Property Ownership Support:** Prior to submission to the Municipal Council, 51% of all property owners must provide support signatures. (an abutters list will be supplied for this purpose)

**Implementation Schedule:** This draft report may be submitted to the Municipal Council after the required 51% support signatures are provided to the Sponsor of the amendment. If the support signatures are collected prior to March 28th, we could submit this amendment to the Council for their April 9th meeting and plan for a public hearing on May 14th.

9. **Severability:** The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

BROWN HILL MAP

# BROWN HILL NEIGHBORHOOD CONSERVATION DISTRICT

Amesbury Zoning Bylaw 2011
Brown Hill Neighborhood Conservation District

## SECTION XI.Q: SMART GROWTH OVERLAY DISTRICT (SGOD)

### 1. PURPOSE

The purpose of this Section XI.Q is to establish the Smart Growth Overlay District (SGOD) to encourage smart growth in accordance with the purposes of G. L. Chapter 40R and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities;
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving Amesbury unique community character;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which mixed-use and residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning that protect neighborhood property values and enhance its unique natural, cultural and historic resources;
7. To encourage the permanent preservation of contiguous open space, scenic vistas, agricultural land, forestry land, wildlife and rare species habitat, other natural resources and features, including aquifers, waterbodies, areas of critical environmental concern, and wetlands, and historical and archeological resources, in a manner that is consistent with the current Master Plan and Open Space Plan;
8. To encourage a more efficient and compact form of development that consumes less open land and natural materials and conforms to existing topography and natural features better than a conventional development;
9. To minimize the total amount of disturbance within the District; and,
10. Enable the City to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G. L. Chapter 40R, 760 CMR 59.06, and G.L. Chapter 40S arising from the development of housing in the SGOD.

### 2. DEFINITIONS

For purposes of this Section XI.Q, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 2.0, or as set forth in the Planned Approval Authority (PAA) Regulations. To the extent that there is any conflict between the definitions set forth in Section 2.0 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

***Administering Agency*** – the Office of Community and Economic Development or other qualified housing entity designated by the Mayor, pursuant to Section 6.2, to review and implement the Affordability requirements affecting Projects under Section 6.0.

***Affordable Homeownership Unit*** - an Affordable Housing unit required to be sold to an Eligible Household.

***Affordable Housing*** - housing that is affordable to and occupied by Eligible Households.

***Affordable Housing Restriction*** - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 6.6 of this Bylaw.

***Affordable Rental Unit*** - an Affordable Housing unit required to be rented to an Eligible Household.

***AGVSGOD*** – the Amesbury Gateway Village Smart Growth Overlay District (AGVSGOD) established in accordance with this Section XI.Q.

***Applicant*** – the individual or entity that submits a Project for Plan Approval.

***As-of-right*** - a use allowed under Section 5.0 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 7.0 through 12.0 shall be considered an as-of-right Project.

***Commercial Project*** - a Project that consists solely of commercial uses, parking, and accessory uses, as further defined in Section 5.1.

***Department or DHCD*** - the Massachusetts Department of Housing and Community Development and any successor agency.

***Design Standards*** –The Design Standards listed in Section 12 are applicable to all Projects within the SGOD that are subject to Plan Approval by the PAA.

***Developable Land*** – all land within the SGOD that can be feasibly developed into residential or mixed-use Development Projects. Developable Land shall not include:

1. Substantially Developed Land;
2. Open Space;
3. The right-of-way of existing public streets, ways, and transit lines;
4. Land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or
5. Areas exceeding one-half (0.5) acre of contiguous land that are:
    - Protected wetland resources (including buffer zones) under federal, state, or local laws;
    - Rare species habitat designated under federal or state law;
    - Characterized by steep slopes with an average gradient of at least 15%;
    - Subject to any other local bylaw, or regulation that would prevent the development of residential or Mixed-Use Development Projects at the As-of-right densities set forth in M.G.L. 40R.

***Eligible Household*** - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

***Enabling Laws*** – G.L. Chapter 40R and 760 CMR 59.00.

***Future Open Space*** - These areas, identified on the Sub-District Plan Identifying Location of Future Open Space shown in Exhibit 2, shall be set aside a dedicated as permanent open space areas through the use of a conservation restriction as defined in G.L. c. 184 or other effective means.

***Maximum Building Area*** - Maximum Building Area includes the total area used for all buildings, primary access, driveways, parking, loading areas and stormwater management areas.

***Mixed-Use Development Project*** - a Project, either within a single building or property, containing a mix of residential uses and non-residential uses, as allowed in Section 5.2, and subject to all applicable provisions of this Section XI.Q.

***Multi-Family Residential Use*** - an apartment of condominium units in buildings that contain or will contain more than three such units, provided that the SGOD may treat attached townhouses on separate lots as a single-family residential use.

***Minimum Open Space*** –The minimum open space area required under Section 7.1 shall be subject to a recorded conservation restriction enforceable by the City providing that such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein, and maintained in a manner which will ensure its suitability for its intended purposes. The open space shall be suitable for and protected and maintained for wildlife habitat, conservation, wetland and habitat areas, historic preservation (landscapes and/or accessory structures), outdoor education, passive and active outdoor recreation, park purposes, agriculture, horticulture, forestry, and/or a combination of these uses. Secondary vehicular emergency access is permitted within the open space area and it shall also be served by suitable pedestrian access for such purposes listed above. At the discretion of the PAA, utility easements and stormwater management systems serving the Project may be located within the minimum open space areas.

***PAA Regulations*** – the rules and regulations of the PAA adopted pursuant to Section 8.3.

***Plan Approval*** - standards and procedures which Projects in the SGOD must meet pursuant to Sections 8.0 through 12.0 and the Enabling Laws.

***Plan Approval Authority (PAA)*** - the local approval authority authorized under Section 8.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

***Project*** - a Commercial, Residential or Mixed-use Development Project undertaken within the AGVSGOD in accordance with the requirements of this Section XI.Q.

***Residential Project*** - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 5.1.

***Zoning Bylaw*** - the Zoning Bylaw of the City of Amesbury, as amended.

## 3. OVERLAY DISTRICT

**3.1 Establishment**. The City of Amesbury shall establish Smart Growth Districts pursuant to G.L. Chapter 40R and 760 CMR 59.00 as Overlay Districts in the City. The Overlay Districts shall be shown on the Overlay District Zoning Map and are further described below:

**3.1.1 Amesbury Gateway Village** This overlay district, hereinafter referred to as the "AGV" and having a land area of approximately 52 acres in size is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled "Amesbury Gateway Village Smart Growth Overlay District, prepared by the Office of Community and Economic Development (attached as Exhibit 1). This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the City Clerk.

The AGVSGOD contains eight (8) sub-districts. The eight (8) Sub-districts are as follows:

1 – SDA (Substantially Developed Area)
2 – MU (Mixed-Use)
3 – SDA
4 – MU
5 – SDA
6 – FOS (Future Open Space)
7 – STF (Single- Two-family)
8 – MF (Multifamily)

**3.1.2 Cedar Street Mills**: This overlay district is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled "Smart Growth Overlay District – Cedar Street Mills", prepared by the Office of Community and Economic Development (attached as Exhibit 1).

**3.1.3 Heritage Park**: This overlay district is superimposed over the underlying zoning district(s) and is shown on the Zoning Map as set forth on the map entitled "Smart Growth Overlay District – Heritage Park" prepared by the Office of Community and Economic Development (attached as Exhibit 1).

## 4. APPLICABILITY OF SGOD

**4.1 Applicability of SGOD.** An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section XI.Q, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

**4.2 Underlying Zoning.** The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section XI.Q. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

**4.3 Administration, Enforcement, and Appeals.** The provisions of this Section XI.Q shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 8 through 12 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section XI.Q shall be governed by the applicable provisions of G. L. Chapter 40A.

## 5. PERMITTED USES

In compliance with the dimensional and density regulations listed under Section 7.1, the following uses are permitted "as-of-right" for Projects within the SGOD.

**5.1 Projects in the Amesbury Gateway Village SGOD:**

**5.1.1** A Project within the Single- or Two-Family Sub-district [STF] may include:

a) Single-family or Two-family residential use(s);

b) Parking accessory to any of the above permitted uses; and

c) Accessory uses customarily incidental to any of the above permitted uses.

**5.1.2** A Project within the Multi-family Sub-district [MF] may include:

a) Single-family, 2 and 3 family, and/or Multi-family residential use(s) [with no more than forty-eight (48) units per building], provided that the minimum allowable as-of-right density requirements for residential use specified in Section 7.1 shall apply;

b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g. parking garages); and

c) Accessory uses customarily incidental to any of the above permitted uses.

**5.1.3.** A Development Project within the Mixed-use Sub-district(s) [MU] may include:

a) Single-family, 2 and 3 family, and/or Multi-family residential use(s), provided that the minimum allowable as-of-right density requirements for residential use specified in Section 7.1 shall apply to the residential portion of any Mixed-use Development Project. Within the "4-MU", the residential use shall only be located above the ground or street-level floor of the building(s);

b) Any of the following commercial non-residential uses:

- Artisan Business
- General Retail Sales and Services
- Restaurant
- Professional/ business offices
- Artist live/work space

c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g. parking garages); and

d) Accessory uses customarily incidental to any of the above permitted uses.

**5.1.4.** A Development Project within the Future Open Space Sub-district [FOS] may include:

a) Any of the following commercial or non-residential uses:

- Public Park or Conservation areas
- City Buildings (except garages)
- Historic Associations/ societies
- Year-round farm stand for retail trade

b) Accessory uses customarily incidental to any of the above permitted uses.

**5.1.5.** A Development Project within the Substantially Developed Area Sub-District(s) [SDA] may include:

c) Mixed-Use, 2 and 3 family and/or Multi-family residential use(s), provided the PAA has determined that any residential density, above that permitted in the underlying zoning district, is consistent with the purpose and intent of this SGOD.

Mixed-Use in these sub-districts shall require the residential use only be located above the ground or street-level floor of the building(s);

d) Any of the following commercial non-residential uses:

- Artisan Business
- General Retail Sales and Services
- Restaurant
- Professional/ business offices
- Artist live/work space

c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g. parking garages); and

d) Accessory uses customarily incidental to any of the above permitted uses.

5.2 **Projects in the Cedar Street Mills and the Heritage Park SGODs**: A project in these Overlay Districts may include:

a) Office and retail without drive-thru's;

b) Professional /business offices,

c) Personal services

d) Multi-family residential use. In the Heritage Park, residential use shall be located only on the upper floors of the building(s) and not below grade and not on the street level floor of the building(s)

e) Artist live/work space

f) Accessory Parking Structure

g) Accessory uses customarily incidental to any of the above permitted uses.

## 6. HOUSING AND HOUSING AFFORDABILITY

**6.1 Number of Affordable Housing Units.** For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

**6.2 Administering Agency.** The administering agency shall be the Office of Community and Economic Development or an agency designated by the Mayor. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;

3. The housing marketing and resident selection plan conform to all requirements and are properly administered;

4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and

5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

6.3 **Submission Requirements.** As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 8.0 through 12.0, the Applicant must submit the following documents to the PAA and the Administering Agency:

1) A narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. ;

2) Evidence that the Project complies with the cost and eligibility requirements of Section 6.4:

2) Project plans that demonstrate compliance with the requirements of this Section 6.3 and Section 6.5; and,

3) A form of Affordable Housing Restriction that satisfies the requirements of Section 6.6.

These documents in combination, to be submitted with an application for Plan Approval shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

6.4 **Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City of Amesbury.

6.5 **Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

6.6 **Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction which shall be the longest period allowed by law but shall be no less than thirty years;
2. The name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
8. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;
9. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;
10. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
11. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the

Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

12. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and

13. A requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

**6.7 Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

**6.8 Age Restrictions.** Nothing in this Section XI.Q shall permit the imposition of restrictions on age upon all Projects throughout the entire SGOD. However, the Administering Agency may, in its review of a submission under Section 6.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

**6.9 Phasing.** For any Project that is approved and developed in phases in accordance with Section 8.4, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

**6.10 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 6.0 shall not be waived.

## 7. DIMENSIONAL AND DENSITY REQUIREMENTS

**7.1.1 Table of Dimensional Requirements for AGV.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the AGV are as follows:

**Table of Dimensional Regulations:**

| Sub-District (1-7) | | Minimum Lot Frontage (feet) | Minimum Yards: Front (feet) | Side (feet) | Rear (feet) | Maximum Height (feet) | Maximum Height (# stories) | Maximum Building Area (% of lot) | Mini Op Spa (% o |
|---|---|---|---|---|---|---|---|---|---|
| 1- SDA | | 200 | 20 | 15 | 20 | 40 | 2.5 | 85 | 1 |
| 2 - MU | | 250 | 20 | 15 | 20 | 35 | 2.5 | 35 | 6 |
| 3- SDA | | 200 | 20 | 15 | 20 | 35 | 2.5 | 80 | 2 |
| 4- MU | | 200 | 20 | 10 | 20 | 35 | 2.5 | 80 | 2 |
| 5- SDA | | 100 | 20 | 10 | 20 | 35 | 2.5 | 80 | 2 |
| 6- FOS | | 50 | 10 | 10 | 20 | 15 | 1 | 10 | 9 |
| 7- STF | | 50 | 10 | 5 | 20 | 35 | 2.5 | 20 | 8 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 8 - MF | 200 | 20 | 15 | 20 | 58 | 5 | 35 | 65 |

**7.1.2 Density Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the density requirements applicable in the AGVSGOD are as follows:

(a) Single-family residential use shall be permitted at a density of at least eight (8) units per acre of Developable Land;

(b) Two-family residential use shall be permitted at a density of at least twelve (12) units per acre of Developable Land; and,

(c) Multi-family residential use shall be permitted at a density of at least twenty (20) units per acre of Developable Land in all Sub-districts except for Sub-District 8 (MF) which shall be permitted at a density of at least thirty (30) units per acre of Developable Land.

**7.1.3 Waivers to Increase Density.** Where project density, as determined under Section 7.1.2, is less than the Maximum Waived Density, as listed in the Table below, the PAA may issue a waiver for an increase of project density after a determination that the proposed density is consistent with the requirements of Sections 6 through 12.

| Sub-District | Maximum Waived Density (number of units) |
|---|---|
| 1- SDA | 8 |
| 2-MU | 20 |
| 3-SDA | 18 |
| 4-MU | 18 |
| 5-SDA | 8 |
| 6-FOS | 0 |
| 7-STF | 13 |
| 8-MF | 240 |

**7.2.1 Density and Dimensional Requirements for Cedar Street Mills and Heritage Park:** Notwithstanding anything to the contrary in this Zoning Bylaw, the density and dimensional requirements applicable in the Cedar Street Mills and the Heritage Park Overlay Districts shall be pursuant to Section XI.H2.4 of the Amesbury Zoning Bylaw. Further, Multi-family residential use shall be permitted at a density of at least twenty (20) units per acre of Developable Land in these Overlay Districts.

## 8.0. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

**8.1 Plan Approval.** An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 8.0 through 12.0. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. The following categories of Projects shall be subject to the Plan Approval process:

a) Any Residential Project;

b) Any Mixed-use Development Project;

c) Any Commercial Project consisting solely of non-residential uses; and,

d) Any Project seeking a waiver.

**8.2 Plan Approval Authority (PAA).** The Amesbury Planning Board, consistent with G.L. Chapter

40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

8.3 **PAA Regulations.** The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development

8.4 **Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 6.9.

8.5 **Design Standards.** To ensure that new development shall be of high quality, and shall meet the standards listed in Section 12. The Planning Board shall follow the Design Standards governing Projects for Plan Approval within the SGOD.

## 9. PLAN APPROVAL PROCEDURES

9.1 **Pre-application.** Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards.

9.2 **Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, [along with application fee(s)] which shall be as set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 6.0, the application shall be accompanied by all materials required under Section 6.3.

9.3 **Filing.** An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.

9.4 **Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Municipal Council, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Administering Agency (for any Project subject to the Affordability requirements of Section 6.0), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

9.5 **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk.

Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

9. 6 **Peer Review.** The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City of Amesbury in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant forthwith.

9.7 **Infrastructure Improvements:** At the Applicant's expense and if applicable, the Project shall be required to address the sewer hookup offset fees as required in the state-imposed sewer hook-up moratorium administered by the City. In lieu of the moratorium, projects can pay into the mitigation fund which then is used by the City to reduce infiltration and inflow into the sewers as a means to increase the capacity of the sewer for additional sewer hook-ups. At the Applicant's expense, all other off-site infrastructure improvements (including but not limited to roads, pedestrian walkways, drainage, flood control, sewer, water, gas, and electric) shall be addressed as a condition of approval. To the maximum extent practicable, projects should be designed so that stormwater runoff from the project site does not enter the municipal separate storm sewer (MS4) system.

9.8 **Performance Bond:** The Board shall require a performance bond or surety to assure that the proposed improvements including, but not limited to, utilities, public amenities, landscaping and the site plan are constructed as approved.

9 .9 **Inspections during Construction:** The Board may require the inspection of improvements as per approved site plan and shall require the Applicant to re-imburse the Board for the services of the consultant.

## 10. DESIGN AND DEVELOPMENT STANDARDS

10.1 **Adoption of Design and Development Standards**. Any Project undergoing the Plan Approval process shall be subject to the Design Standards for the SGOD as set forth below in this Section.

10.2 **Purpose**. The Design and Development Standards shall ensure that the physical character of Projects within the SGOD will meet the following goals:

a. The project will be consistent with the Comprehensive Housing Plan, 2004 Master Plan, Developable Land Plan, Conceptual Smart Growth Residential Density Plan, and any area specific plan(s), or any other plan document(s) adopted by the City of Amesbury;

b. The project will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in traditionally settled areas of the City of Amesbury or other similar regions of the Lower Merrimack Valley; and,

c. The project will be developed in a manner that is consistent with the environmental setting and protective of the natural resources within and around the project.

10.3 **Materials for Review**. All applications for Plan Approval shall be prepared by a registered architect, landscape architect, or professional engineer who shall sign and date a designer's certificate (Form D) as required by the City's subdivision regulations and place their seal upon all pertinent documents unless this requirement is waived by the Planning Board because of unusually

simple circumstances. All original plans shall be prepared on standard 24" x 36" mylar sheets at a minimum scale of 1"=40'. Elevations drawings, where required, shall be drawn at a minimum scale of 1"=8'.

The Planning Board may waive any information requirements it judges to be unnecessary to the review of small scale developments. Said waiver(s) shall be made to the applicant in writing with stated reasons for granting the waiver. The following information shall be included on the Plan:

a. Parcel Information. The location and boundaries of the lot, adjacent streets or ways, applicable information from Section 7 - Dimensional and Density Requirements, the location and owners names of all adjacent properties;
b. Topography. Existing and proposed topography including contours (two foot intervals), the location of wetlands, streams, water bodies, aquifers, aquifer recharge areas, drainage swales, areas subject to flooding, and unique natural land features, including all slopes over 15%, all trees over eight (8) inches in caliper, and the general location of the tree line;
c. Buildings. Existing and proposed structures, including dimensions, footprint, total gross floor area, number of stories, floor elevations and building height(s);
d. Parking & Driveways. The location of parking and loading areas, driveways, access and egress points;
e. Utilities. The locations and description of all existing and proposed septic systems, sanitary sewer water supply, storm drainage systems (including method and calculations for 10 and 100 year storm events), utilities, and refuse and other waste disposal methods;
f. Landscaping. Proposed landscape features including the locations and a description of buffer areas, screening, fencing, and plantings. A planting plan shall be prepared by a registered landscape architect, unless a licensed plant nursery person is deemed appropriate by the Planning Board;
g. Lighting. Existing and proposed lighting including the location, lighting source, and fixture types and a photometric analysis of proposed lighting;
h. Signs. The location, dimensions, height, and characteristics of proposed signs;
i. Open Space. The location and description of all proposed open space or recreation areas; and,
j. Traffic Generation. The plan shall describe estimated daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

10.4 **Additional Materials for Review**. In circumstances related to significant environmental or public safety issues or where the proposed intensity of use requires more detailed review, the Planning Board may also require the following:

a. Surface and water pollution - a report on the impact of storm water runoff on adjacent and downstream water bodies, subsurface ground water and water tables;
b. Soils - a report on the potential dangers of erosion and sedimentation caused by the operation and maintenance of the proposed development and the mitigation efforts proposed. To this end, high intensity soil mapping, i.e., test borings and analysis, may be required;
c. General environmental impact - a report on the relationship of the proposed development to the major botanical, zoological, geological, and hydrological resources on the site, and compatibility of the proposed development with adjacent or surrounding land uses and neighborhoods. At the discretion of the Planning Board, an EIS required through the MEPA process which addresses the Planning Board's concerns may be substituted in lieu of this report;

d. Traffic impacts - a report on existing traffic volume, composition, peak hour levels, and existing street capabilities, analysis of existing and resulting level of services (LOS) for:
   1. The nearest and/or most impacted public roadway intersection;
   2. Estimated average daily traffic generation composition, peak hour levels;
   3. Directional flows resulting from the proposed development;
   4. Proposed methods to mitigate the estimated traffic impact; and,
   5. The methodology and sources used to derive existing data and estimations.

   Further, in an instance where the proposed project will result in an intersection level of service below a rating of LOS D, or result in a roadway volume to capacity rating greater than 1.0; then the applicant shall provide detailed plans (including reconstruction concepts), that when implemented would result in an intersection level of service rating of D or better. The Planning Board may engage a traffic consultant to review said report and make its recommendations to the Planning Board before final action is required;

e. Architectural Plans - elevations, roof plans and other drawings and documentation, architectural elevations of all sides of all new buildings and of those sides of existing buildings which are proposed to be altered in any way. The elevations shall be prepared by a registered architect who shall sign the plan and place his/her seal upon it. The drawings shall be prepared at a minimum scale of 1/8" = 1' and shall show the following:
   1. Exterior material and colors;
   2. Type and pitch of roofs;
   3. Size and spacing of windows, doors and other openings;
   4. Size, location, colors, and copy of signs affixed to or hanging from the building;
   5. The relationship in bulk and height of other existing structure in the vicinity;
   6. Renderings (or model may be provided at the option of the applicant);
   7. Cross-sections of the site and buildings; and,
   8. Product literature on proposed light fixtures.

f. Deeds, easements, agreements and other legal documents - Drafts of deeds, easements, agreements and other legal documents, including the following where applicable:
   1. Deeds of land to be conveyed to the City for streets or other public purposes;
   2. Deeds of easement and right-of-way;
   3. Covenants and any other agreements affecting the use of the site;
   4. Articles of incorporation of a landowner's association and the by-laws of the association; and,
   5. Agreements between the applicant and the City regarding public improvements or other matters.

**10.5 Development and Performance Standards.** In order to receive plan approval, all projects or uses must demonstrate compliance with the development and performance standards of the following criteria:

a. **Access and Traffic Impacts**. Applicants must demonstrate that the project will minimize traffic and safety impacts on City roads and the following:

   1. Curb-cuts and Driveways. The number of curb cuts on state and local roads shall be minimized. One access driveway per lot shall be permitted as a matter of right. Curb cuts shall be limited to the minimum width for safe entering and exiting, and the street width shall in not exceed 24 feet. All driveways shall be designed to afford motorists exiting to highways with safe sight distance. The proposed development shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic. To the extent feasible, access to businesses shall be provided via one of the following:
      a. A common driveway serving adjacent lots or premises;

b. An existing side street; or,
c. A cul-de-sac or loop road shared by adjacent lots or premises.

2. Traffic Impact Statement. In each case where more than 15 residential units are being proposed or a new commercial building(s) of more than 3,000 square feet total floor area is proposed, or where any proposed enlargement of a building would result in a building have more than 3,000 square feet total floor area, a traffic impact statement shall be prepared containing the following information:
   a. A detailed assessment of the traffic impacts of the proposed project or use on the carrying capacity of any adjacent highway or road(s) and associated intersection;
   b. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, promoting use of public transportation, or other appropriate means; and,
   c. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
3. Pedestrian and Bicycle Circulation. Each neighborhood street shall be designed to encourage pedestrian and bicycle travel by providing short routes to connect residential uses with nearby commercial services, schools, parks and other neighborhood facilities. Adequate pedestrian and bicycle access shall be provided as follows:
   a. Sidewalks shall be provided to allow access to adjacent properties and between individual businesses within a development;
   b. If the property directly abuts a pedestrian walkway or bikeway right-of-way, a paved access route to the bikeway shall be provided; and,
   c. Tree-lined or otherwise appropriately landscaped pedestrian paths and walkways shall be linked together areas designated as open space within the site and whenever possible to adjoining public areas
4. Public Streets & Sidewalks. All public streets and sidewalks shall:
   a. Provide for deed public access and all roadways, driveways, trails and sidewalks within the project shall be constructed in conformance with the design and construction standards of Section 7 & 8 of the Amesbury Subdivision Rules and Regulations.
   b. Conform to the "*Streetscape Cross-Sections*" shown in Figures 1-7 of Exhibit 3. In the event of a design conflict, these standards shall supersede other standards in the Zoning Bylaws or Subdivision Rules and Regulations.
   c. All off-site construction on state roadways shall comply with the Department of Massachusetts Highway standards, specifications, or special conditions as applicable.

5. Private Road Construction. All private on-site roadways shall be allowed in any development provided:
   a. Pavement widths for traveled ways (that is, not including parallel or perpendicular on-street parking) shall not be less than twenty (20) feet for two-way traffic or twelve (12) feet for one-way traffic;
   b. Drainage and surface runoff are suitably accommodated if no curbing is to be provided;
   c. Construction standards shall comply with design standards listed in Section 7.09.K of the Amesbury Subdivision Rules and Regulations;
   d. All plans shall specify that such roadways are proposed not to be dedicated to the City but are to remain private roadways;
   e. All deeds conveying any portion of land or a structure in any this development containing private roadways shall specify that such roadways are and are always to remain private roadways;

f. All on-site and off-site improvements, which include the installation of utilities, public lighting, sewers, and other public improvements shall be constructed in accordance with the standards of the Amesbury Subdivision Rules and Regulations; and,
g. Utilities, including water, sewer, or storm drainage, proposed to be dedicated to the City shall be contained in suitable easements which conform to standards set forth by the Amesbury Subdivision Rules and Regulations.

b. **Parking**. Applicants must demonstrate that the project will minimize traffic and safety impacts on City roads and the following:

1. Number of Spaces. Unless otherwise approved by the PAA, the following minimum and maximum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures:

| Uses | Minimum Spaces | Maximum Spaces |
|---|---|---|
| Residential Uses | 1.5 spaces per unit | 1.75 spaces per unit |
| Commercial Uses | 3 spaces per 1,000 SF of GFA | 3.5 spaces per 1,000 SF of GFA |
| Mixed-Use | Residential requirement plus nonresidential requirement | Residential requirement plus nonresidential requirement |

The PAA may allow for additional visitor parking spaces beyond the maximum spaces per unit if deemed appropriate given the design, layout, and density of the proposed development.

2. Shared Parking. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

3. Reduction in Parking Requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:
   a. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
   b. The availability of public or commercial parking facilities in the vicinity of the use being served;
   c. Shared use of off street parking spaces serving other uses having peak user demands at different times;
   d. Age or other occupancy restrictions that are likely to result in a lower level of auto

usage;

e. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and,
f. Such other factors as may be considered by the PAA.

4. Location of Parking. To the maximum extent feasible, any surface parking lot shall:
   a. Be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way;
   b. Locate no more than 25% of the total parking requirements or 10 car spaces along the front yard relative to any principal street, public open space, or pedestrian way;
   c. Arrange all parking and loading spaces to prevent the backing of automobiles onto any street;
   d. Design all off-street parking spaces must be at least nine (9) feet in width, eighteen (18) feet in length with an aisle twenty-four (24) feet in width for a two-way double loaded bay and eighteen (18) feet in width for a one-way single loaded bay. In particular circumstances, the alternative parking lot configurations, per Section VIII of the Amesbury Zoning Bylaw, may be allowed at the discretion of the Planning Board;
   e. Design all off-street parking and loading spaces, access ways, and maneuvering area so as to provide for adequate drainage, snow removal, maneuverability and curb cuts; and,
   f. Establish a buffer strip at least five (5) feet wide adjacent to all buildings and lot lines. No vehicles shall be parked within any buffer strip.

c. **Landscaping**. All Plans shall comply with the following requirements:

1. Landscape Buffers. A landscaped buffer strip at least twenty (20) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees having a minimum 3" caliper, planted at least every 50 feet along the road frontage. At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present an obstruction to sight lines.
2. 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 a natural stone finish and vertical cast in place concrete shall not be permitted.
3. Fences, Decorative Walls and Hedges. Fences, low decorative walls and hedges define walkways, give pedestrian scale to the street and maintain the historic character of the City. The materials and design shall reflect the period and the ornateness of the building they delineate. The use of low decorative fences to delineate spaces is strongly encouraged and the use of any type of chain link or stockade fence is prohibited.
4. Existing Vegetation & Disturbed Areas. To the greatest extent practical, existing natural vegetation shall be preserved. Unless designated as protected open space by the Board, all open and disturbed areas within a project should be landscaped in an appropriate manner, utilizing both natural and man-made materials such as grass, trees, shrubs, attractive paving materials and outdoor furniture;

5. Pedestrian Amenities. Pedestrian/oriented features such as covered walkways, pergolas, outdoor sitting plazas, landscaped open space, drop-off areas and recreational facilities shall be included within the landscape plan;
6. Parking Areas. Parking areas containing over 20 parking spaces shall have at least one shade tree per eight (8) parking spaces, such trees to be a minimum of 2 ½ inches in diameter and located either in the parking area or within ten (10) feet of it. At least five (5)% of the interior of any parking area over 20 spaces shall be maintained with landscaping, including trees, in plots of at least nine (9) feet in width when located within a parking bay. Trees shall be so located to provide visual relief from sun and wind interruption within the parking area, and to assure safe patterns of internal circulation. Further, no more than twenty (20) spaces shall be provided in a row without separation by a landscaped area containing at least one (1) shade tree. In the case of double rows, this separation shall mean twenty (20) spaces on each side of the bay areas. Smaller parking lots shall use landscaping and terracing to break up large areas of pavement and to enhance a residential flavor and appearance; trees and shrubs shall be used to the maximum extent feasible.
7. Storage Areas. Exposed storage areas, 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.
8. Planting Materials. High-quality, drought-resistant, native landscaping shall be provided within the project.
9. Maintenance. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

d. **Open Space**. All Plans shall comply with the following requirements:

1. Use. To the greatest extent possible, such open space shall be left in its undisturbed natural condition or, at the discretion of the PAA, it shall be developed so as to be appropriate, in size, shape, dimension, location, and character to assure access to and its use as a park, recreational area, and visual amenity for the development and its residents.
2. Abutting Conservation Areas. To the extent possible, open space should be planned as single contiguous areas and configured contiguously with abutting conservation open areas. The Board may require a project to provide public access from one or more streets, ways or other public access trails.
3. Permanent Protection. Open space areas left in their natural condition shall be deed restricted in perpetuity through a permanent conservation restriction.
4. Resident's Association. In order to ensure that any proposed common open space and common facilities within the development will be properly maintained, each project development shall have a Resident's Association, which shall be in the form of a corporation, non-profit organization, or trust, established in accordance with appropriate state law by a suitable legal instrument or instruments recorded at the Essex Registry of Deeds or Registry District of the Land Court. As part of the Plan Approval, the applicant shall supply to the PAA copies of such proposed instrument.

e. **Building Design**. Building design shall be reviewed by PAA with input from City officials including the Design Review Committee and any review consultant(s) employed by the PAA, and others as appropriate. The following design elements listed in this subsection are to be interpreted as building design standards to be applied by the PAA as appropriate to the situation under review, including factors such as foundation and soil characteristics, scenic views, and other extraordinary site constraints. These building design standards are

supplemented by the "*Building Height, Placement, and Character Examples*" shown in Figures 1-6 of Exhibit 4 and the Conceptual Site Plan shown in Exhibit 5.

1. Building Size, Height & Scale:
   a. New buildings shall be constructed to a size, scale and height roughly equal to the average size, scale and height of existing buildings (of a similar use) within 200 feet from the structure.
2. Building Placement:
   a. Building placement shall preserve scenic views from major vantage points within the site, especially to and from Route 110 and the abutting residential neighborhoods;
   b. Except for recreational access, disturbance of steep slopes (over 25%) and the placement of buildings in areas that require extensive alteration of steep slopes and mature vegetation through road, utilities or building construction shall be avoided;
   c. New buildings shall conform to the average frontyard setback of the existing residential structures within 200 feet of the structure; and,
   e. To the maximum extent feasible, variations in lot shape and size shall be included to preserve the walkability and spatial character of the City.
3. Building Massing:
   a. To complement and integrate the buildings into the surrounding neighborhood context, uninteresting boxlike forms shall be broken into smaller, varied masses;
   b. Single, monolithic forms that are not relieved by variations in massing shall be avoided;
   c. Unbroken building facades longer than 100 feet shall be avoided; and,
   d. Human-scale features such as porches, patios, walkways and gardens, especially at lower levels within mixed use buildings shall be provided.
5. Sense of Entry:
   a. Main entrances to the building shall include covered porches, porticos, and other pronounced architectural forms; and,
   b. Facades with no strong sense of entry shall be avoided.
6. Fenestration:
   a. Window openings shall be as close as possible to a width to height ratio of 1:2;
   b. Muntin pattern and thickness shall be consistent with traditional architectural styles within the surrounding neighborhood;
   c. The recurrent alternation of wall areas with door and window elements in the façade shall be respected;
   d. The width-to-height ratio of bays in the façade shall be consistent with traditional building patterns;
   e. The use of windows with "true divided lites" or similar is highly encouraged;
   f. Muntin pattern and thickness shall match historic patterns in the neighborhood and shall include only windows with muntins at least on the exterior of the glass; and,
   g. In order to make the windows stand out ,some simple trim around the casing shall be used.
7. Dormers:
   a. If used, a dormer shall only be placed on the rear or less public side of a building with a side-gable roof;
   b. Dormers shall not be so big that they distract from the gable end roofline; and,
   c. Windows shall almost fill the face wall of the dormer and match the windows in the rest of the building.

8. Building Outdoor Lighting:
   a. The style shall match the period of and compliment the building;
   b. Broad area lighting will be highly discouraged while soft lighting aimed down will be highly encouraged; and,
   c. Entry lights shall be mounted within the siding not on the door trim.
   d. All light fixtures shall be Dark Sky Certified or Compliant and designed to provide the minimum illumination recommended by the IESNA in the most current edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
9. Garages and Driveways:
   a. Garages shall be subservient in size, height and location to the overall building;
   b. Garages shall be located so that cars parked outside the structure will not project beyond the front building wall;
   c. The use of detached garages to the rear of the lot is highly encouraged;
   d. Attached front-entry garages shall be a minimum of 10 feet behind the front main building wall;
   e. Attached garages, not setback from the front main building façade, shall be designed to have access from the side or from the rear of the building not visible from the public way; and,
   f. Drive-under garages in the front of the building facing and along Route 110 are not permitted.
11. Roofline Articulation.
   a. The roof design shall provide a variety of building heights and varied roofline articulation;
   b. All utilities shall be located underground and protuberances through or on the front of roofs is highly discouraged;
   c. Introducing roof shapes, pitches, or materials not traditionally used in the area shall be avoided and flat roofs are highly discouraged; and,
   d. For any building, visible roofs shall not rival or exceed walls in their respective visible proportions from street views.
12. Building Materials.
   a. Materials and building treatments shall be used that reduce the visibility of buildings from distant vantage points and shall be consistent and compatible with the materials, backgrounds and surrounding neighborhood buildings;
   b. Materials and colors shall be used that are consistent and compatible with the quality and character of other buildings of surrounding neighborhood buildings; and,
   c. Natural materials, such as brick, stone, wood clapboards and shingles, and slate are preferred over industrial materials such as concrete, sheet metal, asphalt shingles, vinyl and plastic synthetic siding and windows, tinted glass and insulated steel doors; especially those that can be seen at the pedestrian level.
13. Energy Efficiency:
   a. All buildings shall reflect environmentally responsible design and construction practices as governed by the Energy Star Program; and,
   b. Buildings are also strongly encouraged to be certifiable by the U.S. Green Building Council LEED Rating System.

f. **Stormwater Management, Wetlands and Riverfront Areas.** In establishing compliance with the local Amesbury Wetland Protection Bylaw, within the SGOD these standards are as

follows:

1. Any permanent disturbance to an isolated wetland on the site must be mitigated by providing in-kind replication of the wetland at a minimum of 1:1 (impact area: replication area) within the Smart Growth Overlay District. If an isolated wetland is located within 200 feet of a Bordering Vegetated Wetland (BVW), then any impacts to that isolated wetland shall be replicated within the 200 feet of that same BVW system;
2. Any permanent disturbance to a Bank of an intermittent stream must be replicated in accordance with the requirements in the MA Wetland Protection Act, and the replicated bank must be located within the Smart Growth District and must be bordered by a buffer of native vegetation to the maximum width possible;
3. New development within the 100-foot buffer to the floodplain will be permitted only for use as a pedestrian recreational trail, primary vehicular access if the PPA determines that the location of the primary access is the preferred location on the site, or secondary emergency access if the PPA determines, with input from the Police and Fire Departments, that the location of the secondary access is the preferred location on the site;
4. No new permanent disturbance to the Bank of a perennial stream or river will be permitted. All projects must maintain a minimum no-alteration setback distance of 100 feet from the Bank of a perennial stream, with the exception of the redevelopment of pre-existing access for use as a pedestrian recreational trail or primary vehicular access if the PPA determines that the location of the primary access is the preferred location on the site. If this exception applies, the project shall maintain the widest reasonable setback distance to minimize impacts to the area within 100 feet of the river bank, and shall comply with all other requirements of the Rivers Protection Provisions of the MA Wetlands Protection Act;
5. Except for disturbance permitted under Section 1, all projects must maintain a vegetated buffer of 25 feet around all isolated and bordering vegetated wetlands. All new plantings that are required to stabilize this buffer area and/or revegetate it after the construction phase of a project must be native, non-invasive species and must be appropriate transitional species in accordance with the topography and soils within the buffer area;
6. All new plantings within the site must be non-invasive species, and no exotic ornamental plantings shall be planted within the 100 foot buffer to a wetland resource area, as defined by the MA Wetlands Protection Act;
7. All projects must meet the MA DEP/CZM standards as described in the Massachusetts Stormwater Policy (Volumes 1 and 2) (MA DEP/CZM, 1996, as updated), regardless of whether the project discharges directly to a wetland resource or falls under the jurisdiction of the MA Wetland Protection Act; and,
8. All projects must comply with all federal, state and local wetland regulations.

g. **Erosion Control.** Erosion of soil and sedimentation of streams and water bodies shall be minimized using the following erosion practices:
   1. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regarding shall be permanently stabilized within six months of occupancy of a structure;
   2. During construction, temporary vegetation and/or mulching shall be used to protect exposed area from erosion. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped by using staked hay bales or sedimentation straps;

3. Permanent erosion control and vegetative measures shall be in accordance with the erosion/ sedimentation/vegetative practices recommended by the Soil Conservation Service;
4. All slopes exceeding 15% resulting from site grading shall be either covered with 4 inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or to be stabilized by a retaining wall; and,
5. Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

h. **Water Quality**. Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drain pipes, reduction of paved areas, and reduction of building coverage. To improve water quality techniques such as installing low impact development drainage systems such as rain gardens, bio-retention areas and water quality swales. Where the groundwater elevation is close to the surface extra site grading precautions may be taken to maintain the protective function of the overburden.

i. **Hazardous Material and Explosive Materials.** The storage, use, transportation, and removal of all hazardous materials and explosive materials shall be consistent with the requirements specified by the Amesbury Fire Department plus all relevant state and federal regulations.

j. **Lighting.** All Plans shall comply with the following requirements:
   1. Parking lot pole lighting shall not exceed a height of 18 feet;
   2. Lighting along the driveways, pedestrian walkways and sidewalks shall not exceed 12 feet in height; and,
   3. The pole heights should determine the overall spacing of the poles and fixtures shall be of the cutoff luminaries type. Lamp type should be metal halide to provide a natural uniform quality of light. Parking and pedestrian light fixtures should be compatible with the building lighting to provide for a contiguous appearance of the project.
   4. All other provisions of Section XI.C.8.i.

k. **Environmental Performance Standards**. All Plans shall comply with the following requirements:

   1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located;
   2. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire fighting and fire suppression devices and equipment;
   3. No activities that emit dangerous radioactivity at any point; no electrical disturbance adversely affecting the operation of any point, or any equipment other than that operation at any point, or any equipment other than that of the creator of such disturbance shall be permitted;
   4. No emission of visible smoke of a shade darker than No 1 on the Ringlemann Smoke Chart as published by the U. S. Bureau of Mines shall be permitted;

5. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling at any point, or in no event any emission of any solid or liquid particles in concentration exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted;
6. No discharge, at any point, into a private sewerage system, stream, the ground, or a municipal sewerage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply, or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted;
7. No vibration which is discernible to the human sense of feeling for three (3) minutes or more in any hour between 7:00 A.M. and 7:00 P.M. or for thirty (30) seconds or more in any hour between 7:00 P.M. to 7:00 A.M. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U. S. Bureau of Mines Bulletin N.442;
8. No emission or odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington, D. C. shall be permitted; and,
9. No direct or sky-reflected glare, whether from floodlights, or from high temperature processes such as welding shall be permitted.

1. **Noise**. All Plans shall comply with the following requirements:
    1. Excessive noise at unreasonable hours shall be muffled so as not to be objectionable due to volume, frequency, shrillness, or intermittence;
    2. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line or district line, whichever is more restrictive of the source:

| Frequency Band (Cycles Per Second) | Sound Pressure Level (Decibel re.0.002 dyne/CM) |
|---|---|
| 20-75 | 65 |
| 75-100 | 54 |
| 150-300 | 47 |
| 300-600 | 41 |
| 600-1200 | 37 |
| 1200-2400 | 34 |
| 2400-4800 | 31 |
| 4800-10,000 | 28 |

If this sound is not smooth and continuous, the following corrections should be added to each of the actual decibel levels given:

| | | |
|---|---|---|
| a. | Daytime Operation Only | +5 |
| b. | Noise source operations less than 20% of any hour period | +5 |

Note: Only one (1) of above corrections may be applied.

Sound pressure level shall be measured at all major lot lines, at a height of at least four (4) feet above the ground surface. Noises shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 "American Standard Specification for General Purpose Sound Level Meters." The interment shall be set to the A-weight response scale. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Meter for the Physical Measurements of Sound";

3. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timer harvesting, traffic, church bells, emergency warning device, parades, or other similar special circumstances; and,
4. No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.

m. **Utilities**. All Plans shall comply with the following requirements:
   1. Electric, telephone, cable TV and other such utilities shall be underground from existing roadway utilities; and,
   2. The applicant must demonstrate that the proposed development is consistent with the City's Planned Infrastructure Report and Capital Improvement Plan and that it will not overburden public sewer, water, and other service systems. If sewerage is to be treated on site, the applicant shall submit plans and specifications for said treatment system and shall demonstrate that the system will not negatively impact adjacent properties or aquifer recharge areas.

n. **Signs.** All Plans shall comply with the following requirements:
   n.1 In the Amesbury Gateway Village, the following signs shall be allowed:
   - i. Business Signs: For each individual business only one sign shall be permitted, with a maximum signboard area (either a wall or projecting sign) of fifteen (15) square feet or 10% of the area of the wall upon which it is placed, whichever is lesser, with content limited to identifying the name and/or corporate logo of the business;
   - ii. Directory Signs. One freestanding directory sign is also permitted for each commercial development with four (4) or more businesses provided: it shall not exceed 30 square feet in surface area; shall be setback at least ten (10) feet from the street line; it shall not exceed six (6) feet in height above the ground; and, it shall contain a continuous background color with each business displayed thereon;
   - iii. Directional Signs. Directional signs, for the sole purposes of orientation and direction, and of identifying common building spaces, are also permitted per the review and approval of the Board;
   - iv. Free-Standing Ground Signs. One free standing ground sign shall be allowed for a multi-family development with more than twenty four (24) or more residential units provided: it is built in a landscaped planter; shall not exceed twelve (12) square feet; and shall not exceed six (6) feet in height above ground;
   - v. Lighting. All signs shall be indirectly lit and neon signs shall not be allowed; and,
   - vi. Other Signs. Reader boards, LED lights, or other similar signs are not permitted.

n.2 In the Cedar Street Mills and the Heritage Park, the signs shall be required to follow the requirements of sings allowed in the Central Business District. No other signs shall be allowed.

**o. Shadows**. Between 9:00 a.m. and 3:00 p.m. (EST) from February 21st to October 21st, no building shall cast a shadow on any residential structure in existence at the time of Preliminary Plan submission.

**p. Universal Access**. All buildings shall conform to the universal access requirements of 521 CMR (The Rules and Regulations of the Massachusetts Architectural Access Board), the Uniform Federal Accessibility Standards (UFAS), as referenced by Section 504 of the Rehabilitation Act, the 24 CFR 100.205 - Federal Fair Housing Act (FHA) requirements for Accessible Design and Construction, and Appendix A to 26 CFR Part 36 - ADA Standards for Accessible Design (ADAAG), as referenced in the Americans with Disabilities Act.

## 11. PLAN APPROVAL DECISIONS

**11.1 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. The applicant has submitted the required fees and information as set forth in the PAA Regulations; and,
2. The Project as described in the application meets all of the requirements, criteria and standards set forth in Section 10: Design Standards for the SGOD, and the PAA Regulations, or a waiver has been granted there from; and,
3. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 6.0, compliance with condition (2) above shall include written confirmation by the Administering Agency that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section XI.Q, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**11.2 Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. The applicant has not submitted the required fees and information as set forth in the PAA Regulations; or
2. The Project as described in the application does not meet all of the requirements, criteria and standards set forth in Section 10, Design Standards for the SGOD, and the PAA Regulations, or that a requested waiver there from has not been granted; or
3. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

**11.3 Waivers.** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section XI.Q, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section XI.Q.

**11.4 Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any

extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

11.5 **Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

11.6 **Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

## 12. CHANGE IN PLANS AFTER APPROVAL BY PAA

12.1 **Minor Change.** After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

12. 2 **Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 8.0 - through 10.0.

## 13. SEVERABILITY.

If any provision of this Section XI.Q is found to be invalid by a court of competent jurisdiction, the remainder of Section XI.Q shall not be affected but shall remain in full force. The invalidity of any provision of this Section XI.Q shall not affect the validity of the remaining Bylaw.

**EXHIBIT 1: AGVSGOD ZONING MAP**

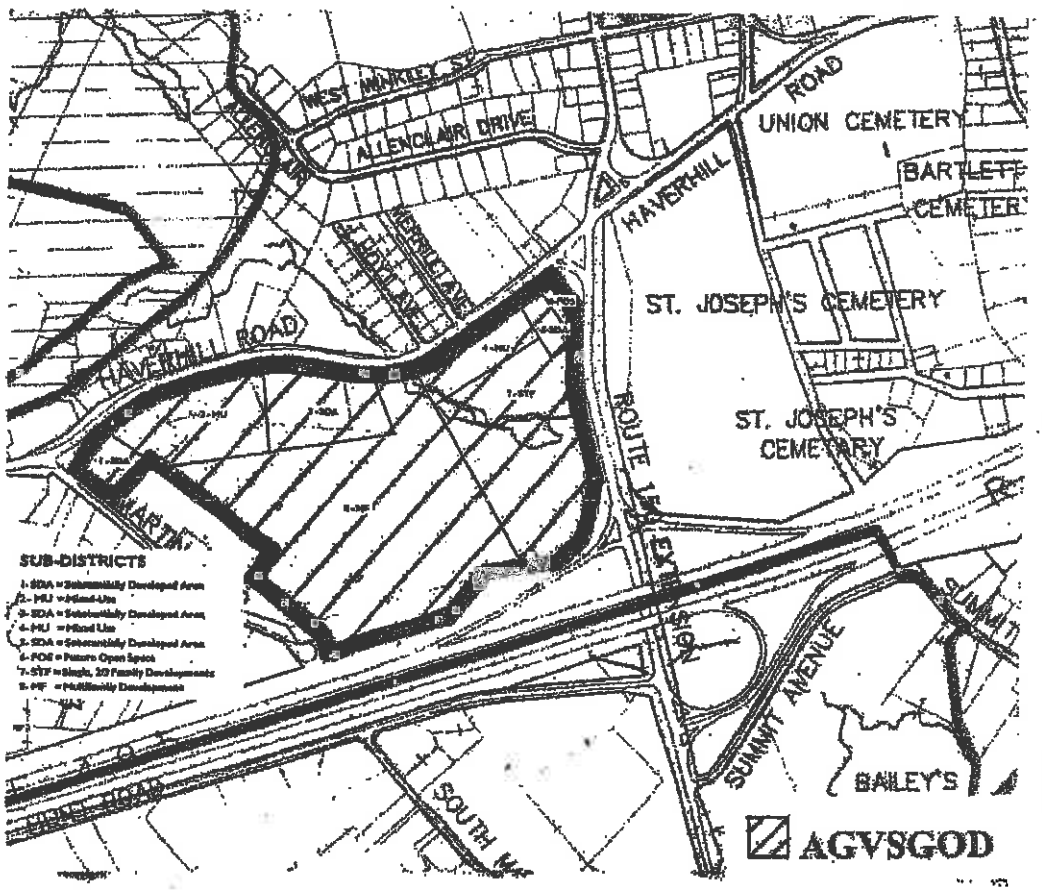



**Exhibit 1: Amesbury Gateway Village Smart Growth Overlay District (AGVSMOD)**

**EXHIBIT 2: SUB-DISTRICT PLAN IDENTIFYING LOCATION OF FUTURE OPEN SPACE**

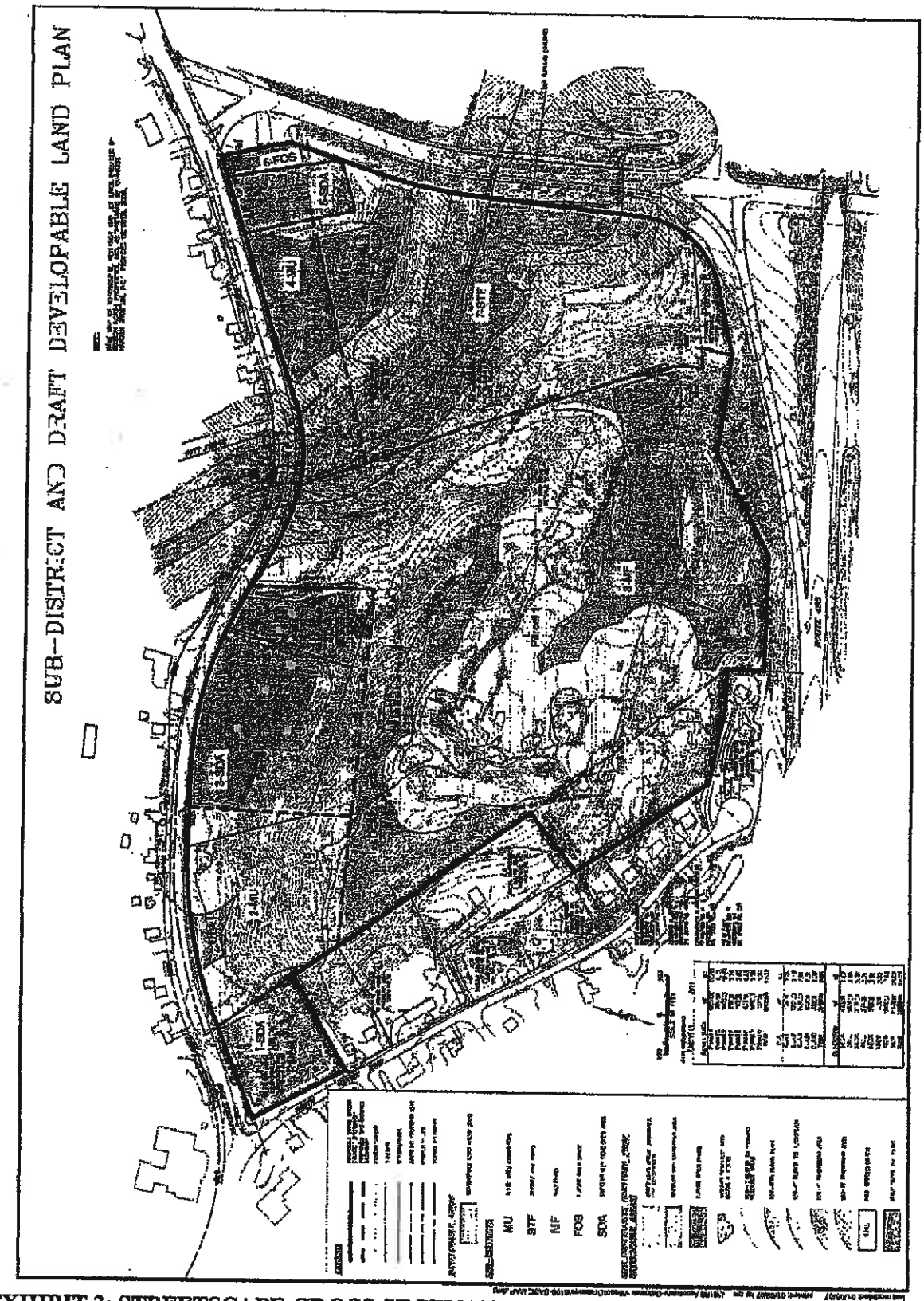
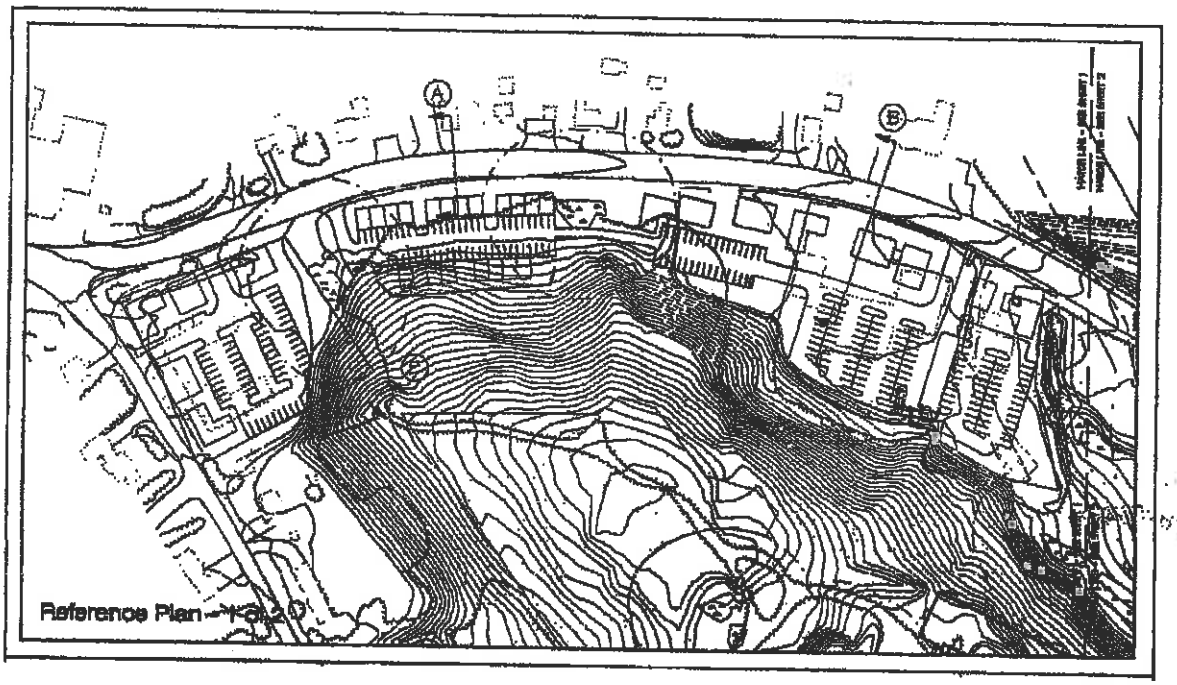
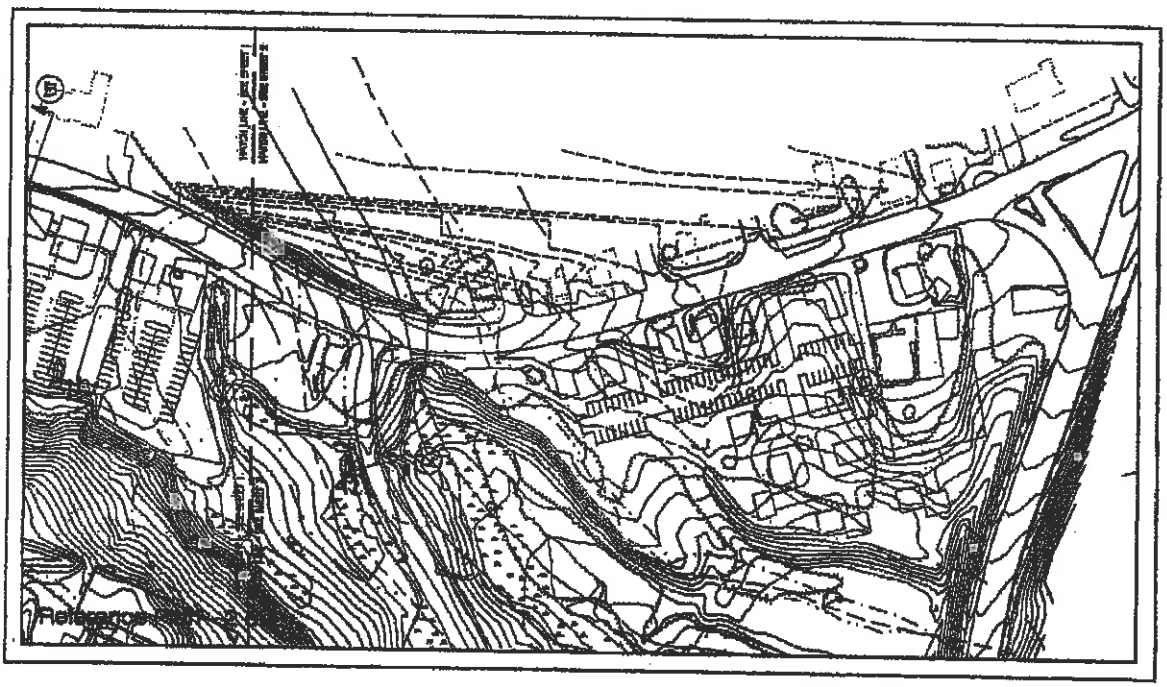
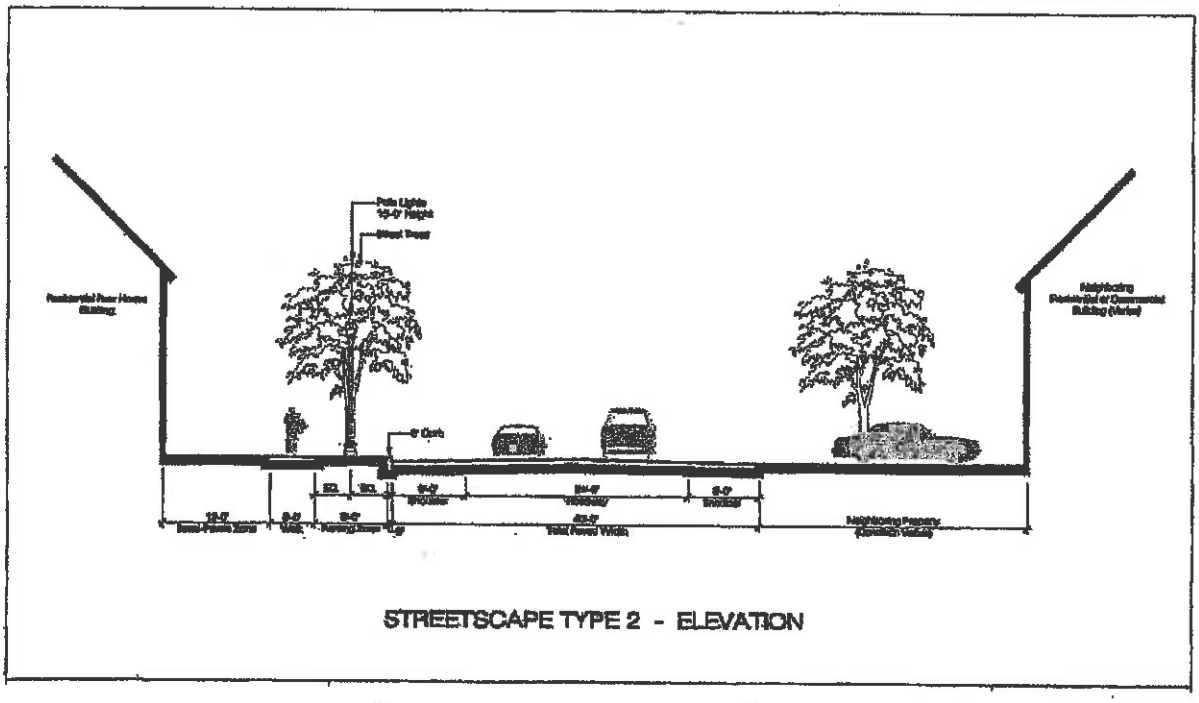



**EXHIBIT 3: STREETSCAPE CROSS-SECTIONS**

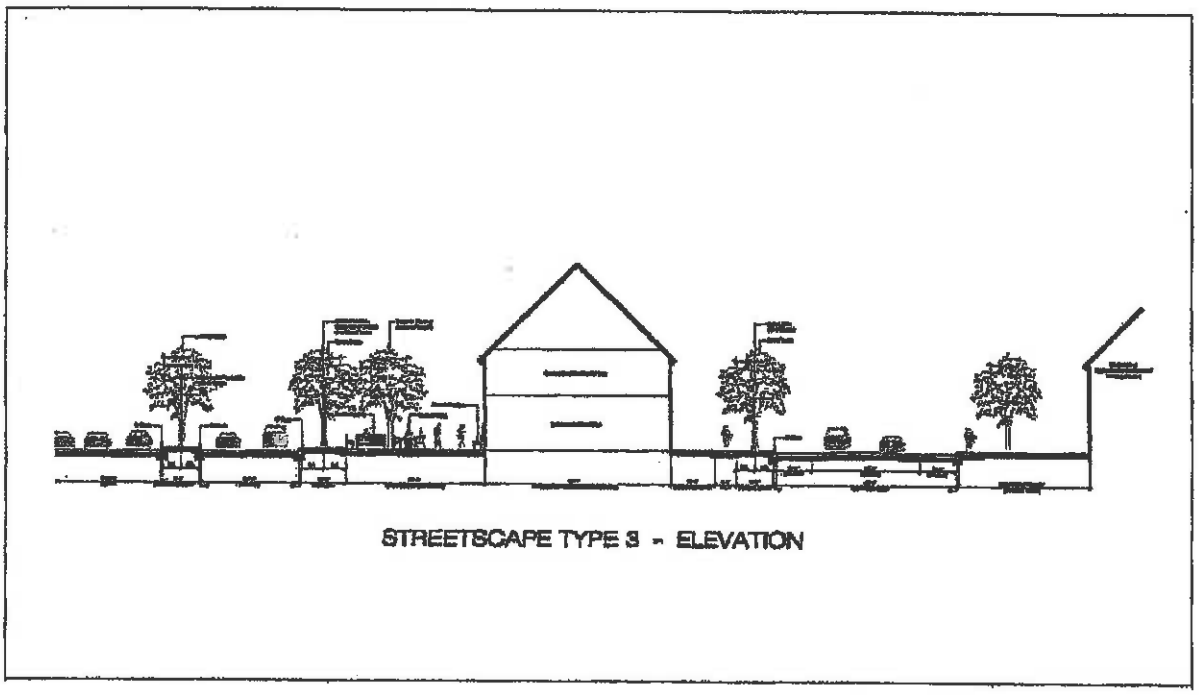


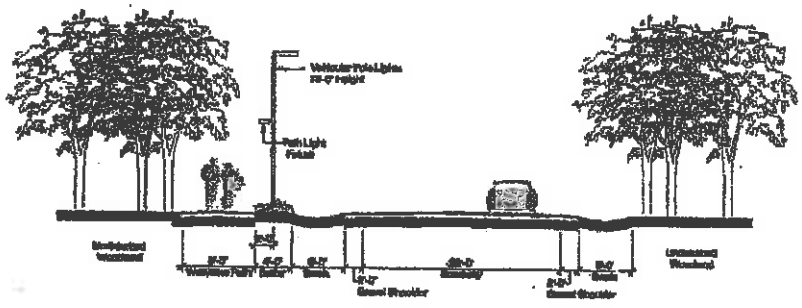
Section XI.Q EXHIBITS



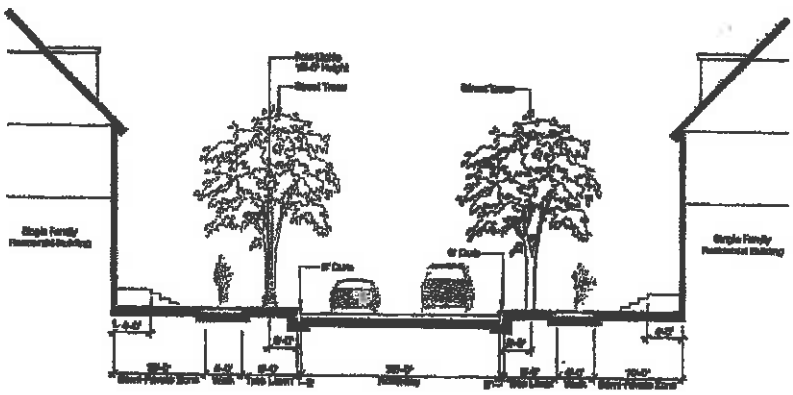
STREETSCAPE TYPE 2 - ELEVATION



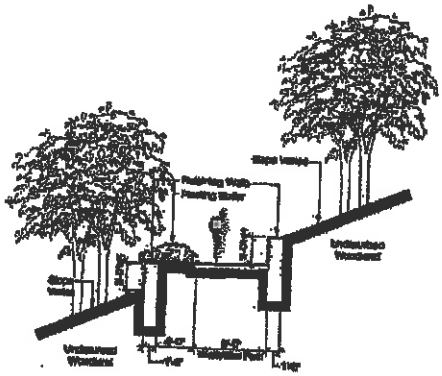
STREETSCAPE TYPE 3 - ELEVATION



STREETSCAPE TYPE 4 - ELEVATION



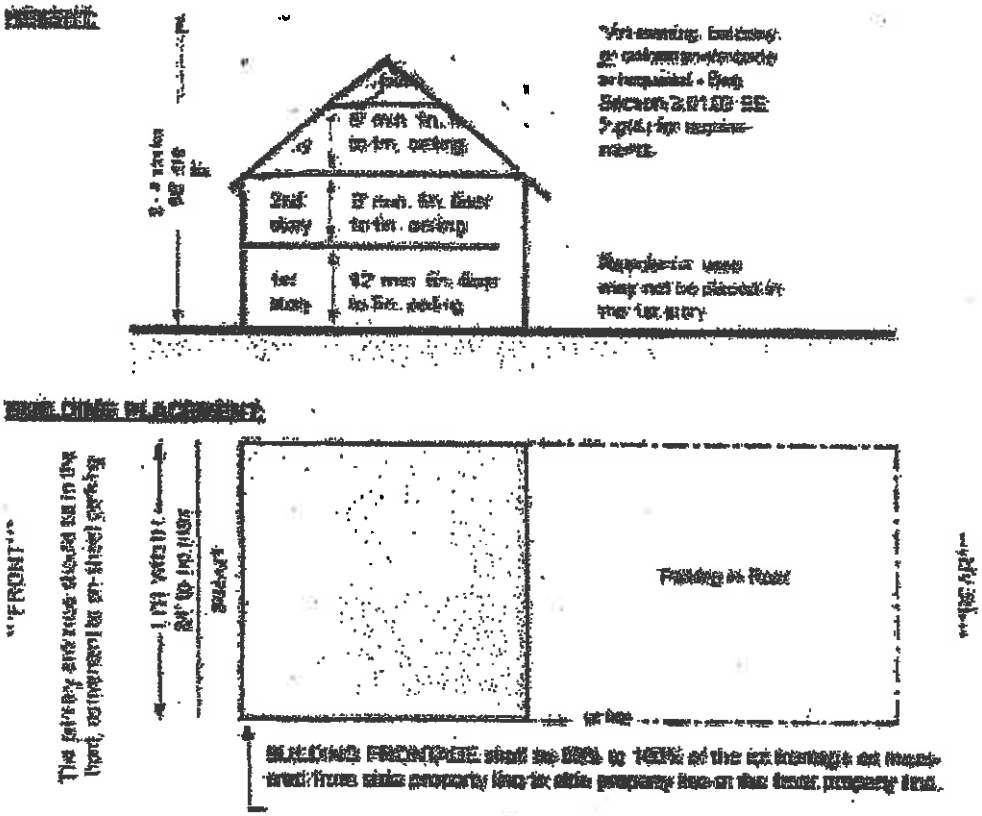
STREETSCAPE TYPE 1 - ELEVATION

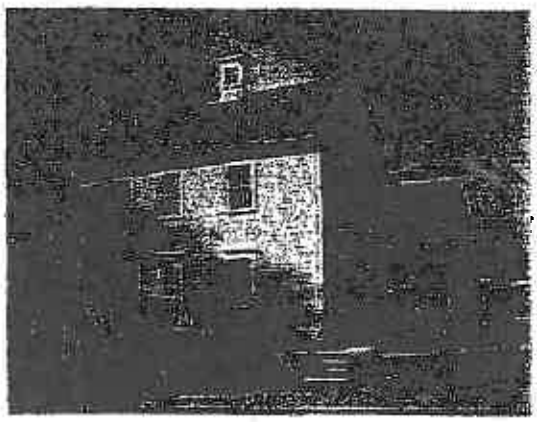


PEDESTRIAN WALK/BIKE PATH - ELEVATION

## EXHIBIT 4: BUILDING HEIGHT, PLACEMENT AND CHARACTER EXAMPLES

### (4) Mixed-Use Building Lot (MU)







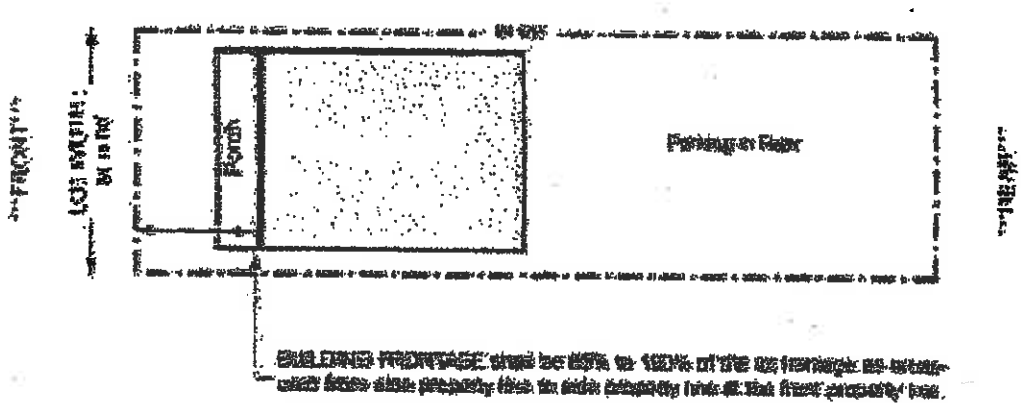
4/7/12

## (2) Retail Building Lot (RB)

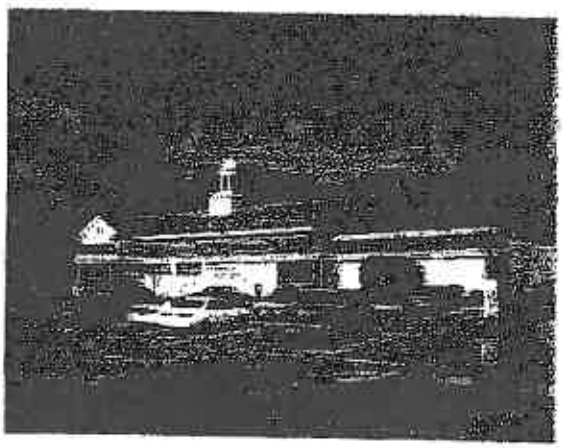
[illegible]

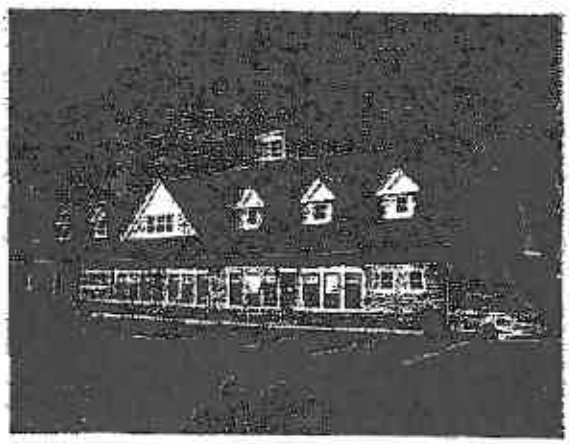
**HEIGHT:**

**BUILDING PLACEMENT:**



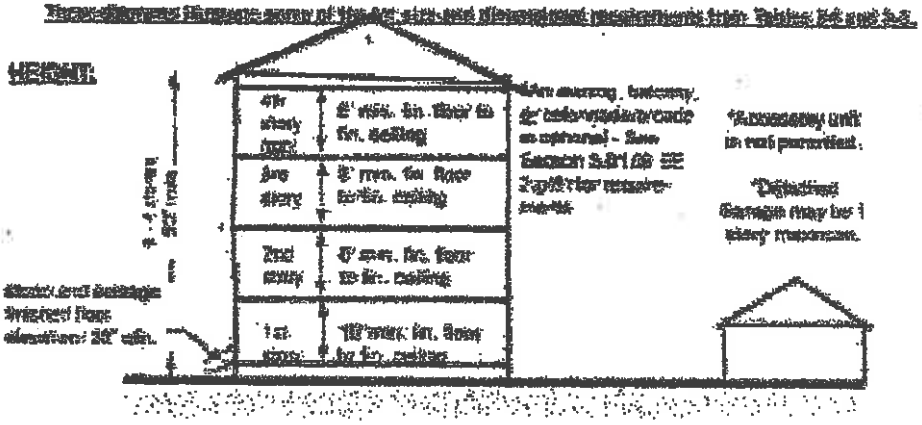

**PRECEDENTS & CHARACTER EXAMPLES:**

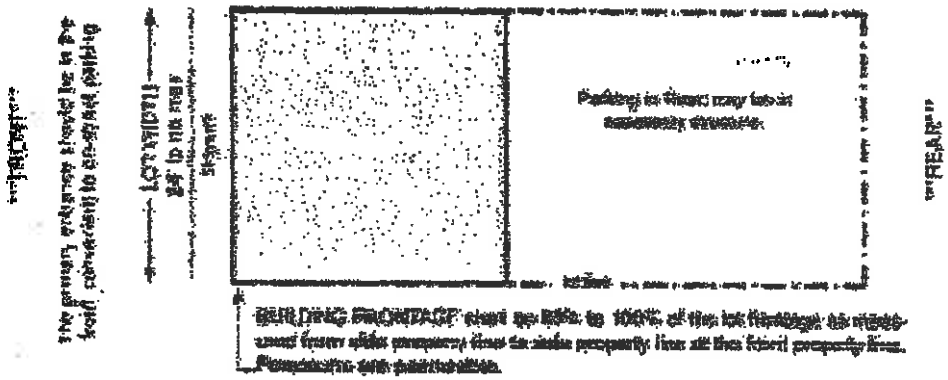


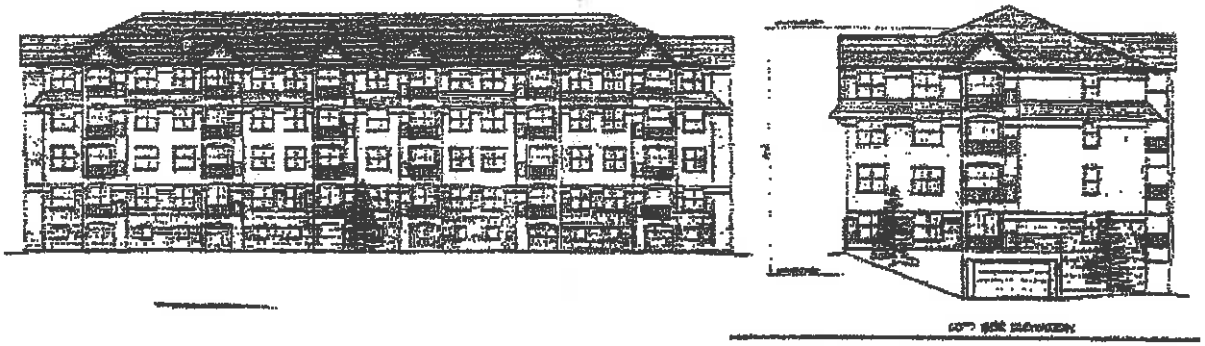


Section XLQ EXHIBITS

## (3) Apartment Building Lot (ABL)

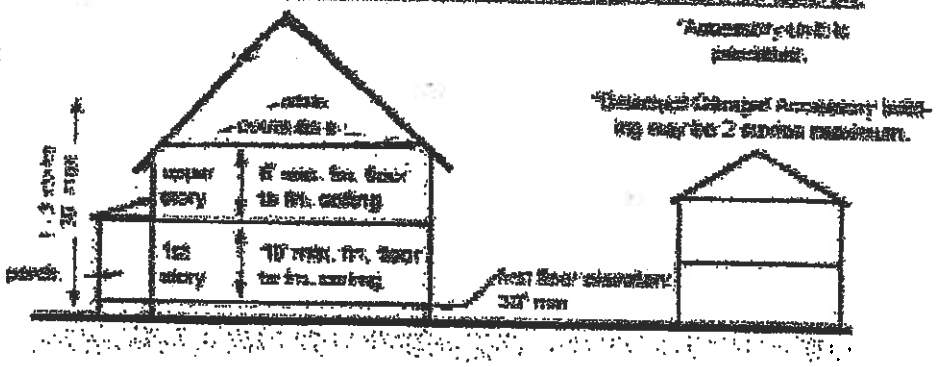


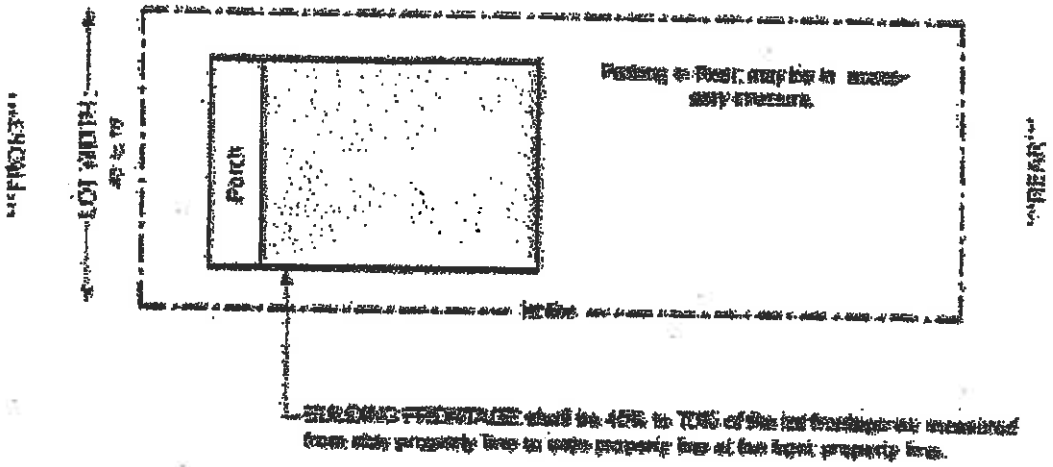


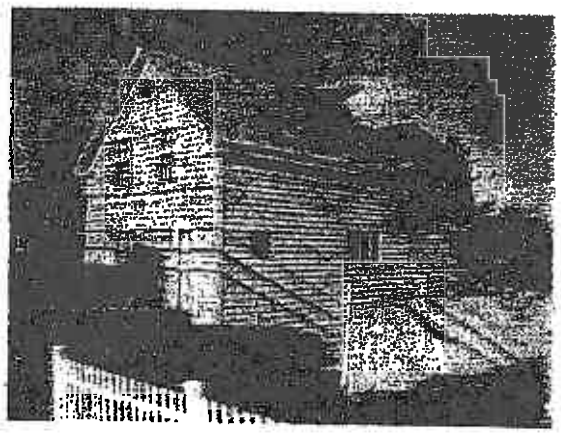


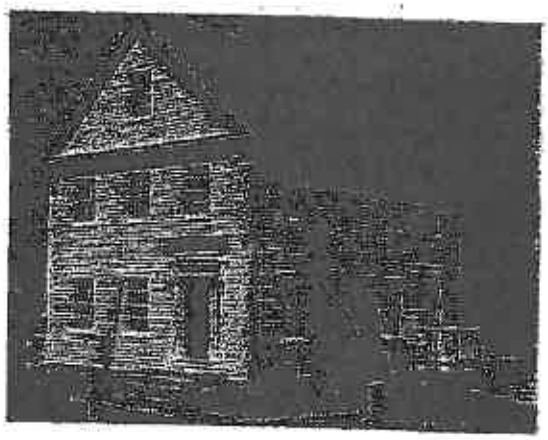
Section XLQ EXHIBITS

## House Lot (HO)



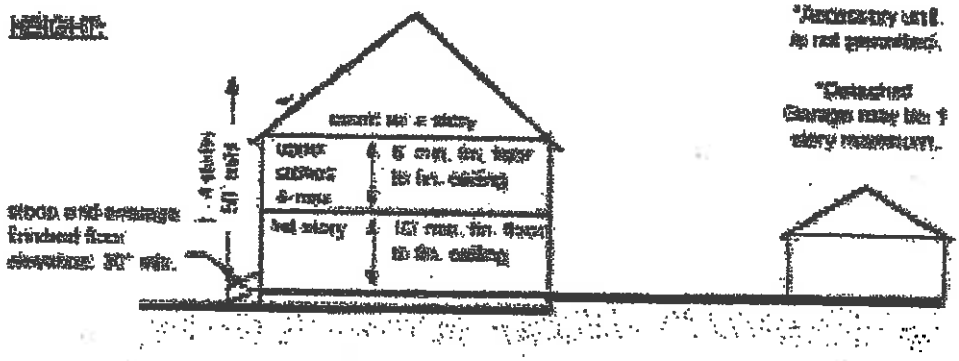


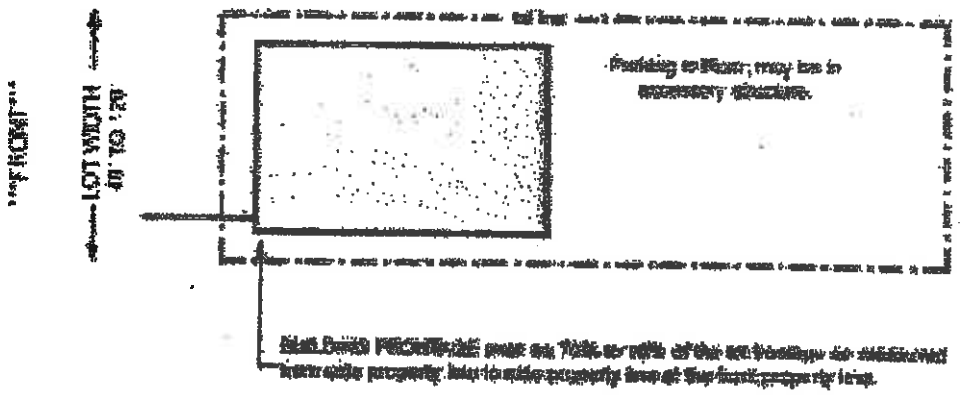



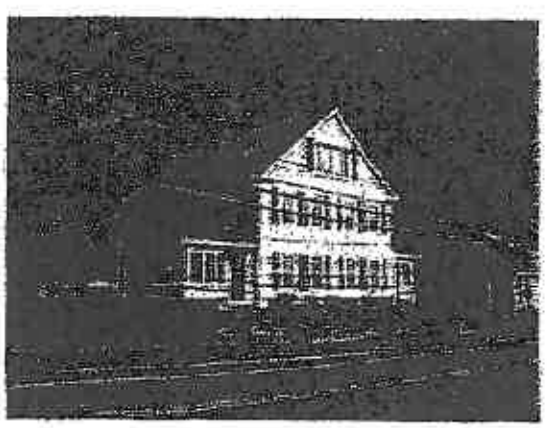


Section XLQ EXHIBITS

## (5) Two/Three Family House Lot (AH)







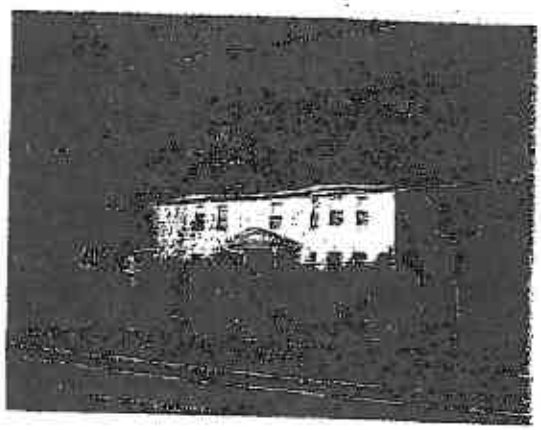
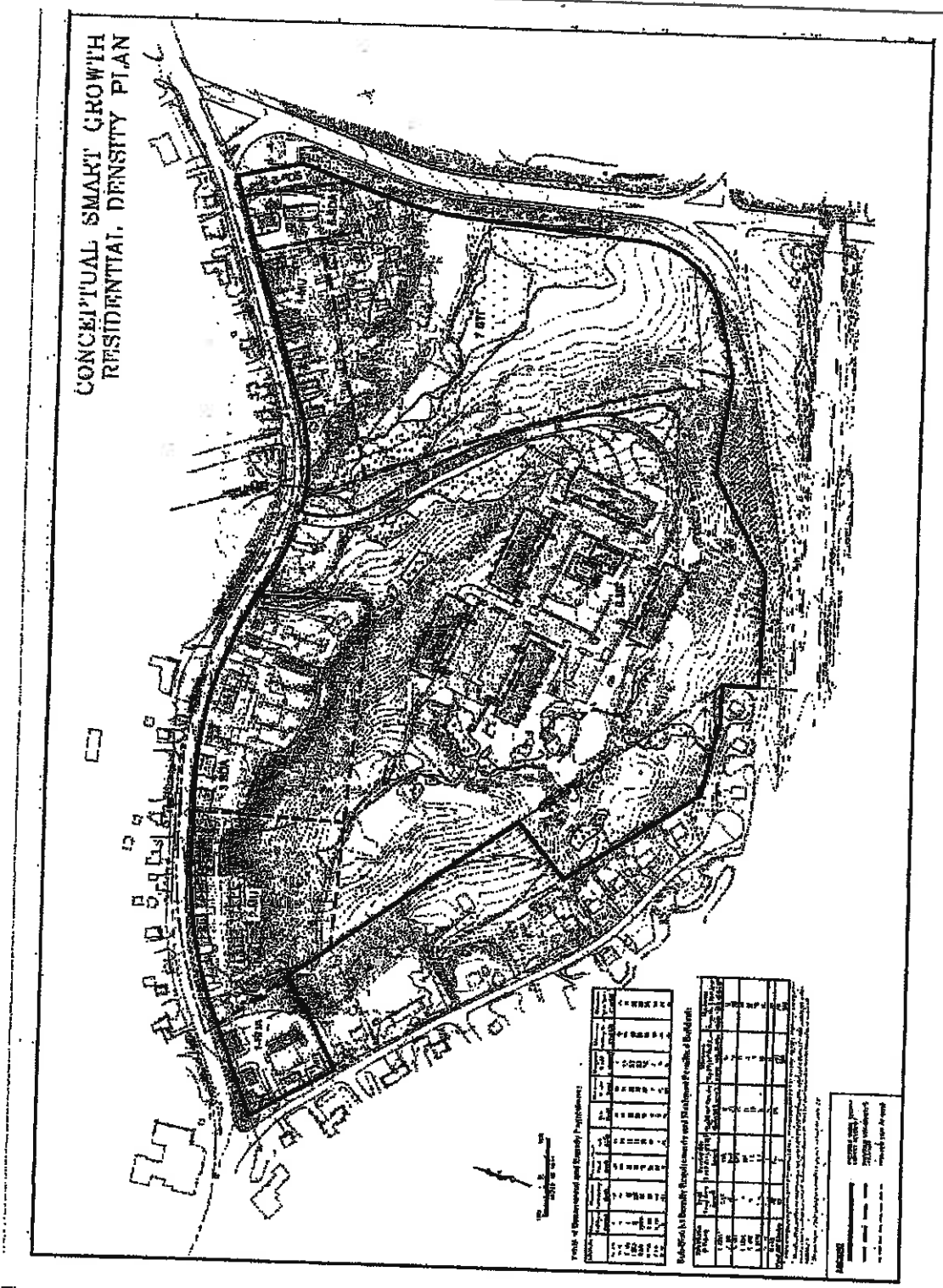


**EXHIBIT 5: CONCEPTUAL SMART GROWTH RESIDENTIAL DENSITY PLAN**

Section XLQ EXHIBITS




The conceptual smart growth site plan is provided here merely as a guideline for applicants making application under section XI. Q of the Amesbury Zoning Bylaw. Its purpose is to demonstrate how the various sub-districts could be developed as per the provisions of the section XI.Q. The actual site plan to be approved by the PAA would depend on the uses and site design presented by the applicant(s) and that meets the review criteria and requirements under Section XI.Q.

## Section XI.Q EXHIBITS

P 12/12

# SECTION XI.R - PRIORITY DEVELOPMENT OVERLAY DISTRICTS (PDOD) (Under M.G.L. Ch. 43D)

## 1. PURPOSE(S)

1. To establish Overlay District(s) over areas within the City of Amesbury that are designated as Priority Development Site(s) (PDS) as per provisions of M.G.L. Ch. 43D;

2. To identify a specific contact person within the City of Amesbury for projects proposed within any designated PDS (s) in the City of Amesbury;

3. To identify and specify the exact process and procedures for all stakeholders regarding the timing, opportunity for input, performance standards criteria used in reviewing projects proposed in a PDS and the final decision making process for such projects;

4. To establish the permitting process and requirements for projects proposed within the PDS(s); and

5. To provide a "one-stop location" for all eligible projects proposed within the PDS(s).

## 2. DEFINITIONS

1. PERMIT GRANTING AUTHORITY/PERMIT GRANTING AUTHORITIES (PGA): For the purpose of this section, the Permit Granting Authorities are the Planning Board, the Conservation Commission, Zoning Board of Appeals, and the Historical Commission, individually or in any group configuration.

2. PRIORITY DEVELOPMENT SITE: "Priority development site", PDS, a privately or publicly owned property that is: (1) commercially or industrially zoned, or zoned for mixed use development; (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for development or redevelopment containing at least 50,000 square feet of gross floor area in new or existing buildings or structures; and (3) designated as a priority development site by the State's Interagency Permitting Board IAW 400 CMR 2.00. Several parcels or projects may be included within a single priority development site.

3. BOARD: InterAgency Permitting Board, as provided under M.G.L. Ch. 43D and 400 CMR 2.00

4. SECRETARY: the Secretary of the Executive Office of Economic Development.

5. GOVERNING BODY: For the purposes of this Section R, the Planning Board is hereby designated to be the governing body with all of the applicable authority as provided for under M.G.L. Ch 43D and 400 CMR 2.00. As such, the Planning Board shall have the power and authority to act on behalf of the Mayor and the Municipal Council under this Section R for the purposes of carrying out the functions and responsibilities assigned to the governing body under M.G.L. Ch 43D and 400 CMR 2.00

## 3. OVERLAY DISTRICTS

(a) GOLDEN TRIANGLE: On November 19, 2007, the Municipal Council of Amesbury voted to confirm the provisions of Chapter 43D of the Massachusetts General Laws as amended pursuant to Section 11 of Chapter 205 of the acts of 2006, and to confirm acceptance from the Interagency

Permitting Board of the Executive Office of Economic Development, of the creation of a PRIORITY DEVELOPMENT SITE in Amesbury known as the "Golden Triangle", located in the South-East corner of Amesbury, and generally bounded by Rt. 495 on its northwest side, Rt. 95 on its northeast side, by Elm Street on the southwest side, and by Macy Street (Rt. 110) on its South side. The Golden Triangle is more specifically described in the approved Municipal Council Bill 2007-108. The boundaries of the said Overlay District shall be shown on the Overlay District Zoning Map of the City of Amesbury as amended.

(b) LOWER MILLYARD & CARRIAGE HILL URBAN PARK: The Lower Millyard and Carriage Hill areas are comprised of several industrial mill buildings, parking lots and the municipal parking deck. This Priority Development Site is generally bounded by the Powow River, Back River, and Chestnut Street. The boundaries of said Priority Development Site shall be included in the Priority Development Overlay District and shown on the Overlay District Zoning Map of the City of Amesbury as amended.

## 4. APPLICABILITY

1. **Applicable Provisions: The provisions of Section XI.R** shall apply to any application for projects within the PDOD and submitted to the City of Amesbury for allowable uses under Section V, the Table of Use Regulations, as amended, that meets the eligibility requirements as set forth in Section XI.R.5 and is subject to approval by one or more PGA(s) in the City of Amesbury.

2. **Underlying Zoning:** Within the boundaries of the PDOD, a project shall be developed in accordance with the requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

3. **Permits and Decisions:** Permits governed by the provisions of this section shall generally include Site Plan Review permits, Special Permits, and Conservation Commission Permits, but shall not include Building Permit approvals, approvals from the Board of Health, or approvals of definitive subdivisions within a PDOD. All applicable regulations and permit requirements under the Enabling Law (MGL), Zoning Bylaw, Local Wetlands Bylaw and other local and state bylaws, as amended, shall continue to apply for applicable permits for the proposed use(s). Eligible Projects within a PDOD, shall receive a decision on the submitted application from the respective PGA within 180 calendar days of receiving a completed application.

## 5. ELIGIBILITY

An application for development within a PDOD may be submitted to the City upon satisfaction of the following requirements:

1. The proposed use (s) is allowed at the time of filing the formal application under Section V, Table of Use Regulations, Section VI, Dimensional and Density Regulations, and Section XI, Special Conditions of the Zoning Bylaw, as amended;

2. A proposed non-residential development project that includes both a minimum building floor area of 50,000 sq.ft. or more in one or more buildings, and is proposed on a minimum land area of five (5) acres;

3. The applicant has consulted with the Director, Office of Community and Economic Development (OCED) to discuss the scope of the project, proposed project proposal and preliminary site design in adequate depth and the permitting requirements;

4. The applicant has submitted to the City Planner, a written NOTICE OF INTENT TO DEVELOP WITHIN A PDOD which identifies the following: contact information for the applicant(s); a detailed description of the land use type, square footage, number and configuration of buildings and parking spaces of the proposed project; contact information for the applicant's architect, project surveyor, civil engineer, and traffic engineer; and which Massachusetts Department of Environmental Protection (DEP) and Mass Highway Department (MHD) permits will be necessary for the project;

5. The applicant has attended a pre-application meeting to present and discuss a preliminary conceptual development plan (professionally produced at the applicant's expense) with each of following three groups a) 43D Technical Assistance Group, comprising of a majority of the Professional Staff of the City; b) Planning Board and Design Review Committee; and c) Conservation Commission. These pre-application meetings are for information sharing purposes only (they are not to be conducted as formal hearings); they may be conducted jointly or individually as meeting scheduling allows.

6. The applicant has submitted and received a decision from the Zoning Board of Appeals (ZBA) on any variance(s) due to pre-existing non-conformities at the time of submission of the application. Any application for a project within a PDOD seeking a variance(s) and/or finding determination from the ZBA, shall not be considered complete until such time as the necessary variances are granted by the applicable authority and there are no pending appeals thereto on the granted variances.

7. Any application for a project within a PDOD shall not be considered complete until such time as the applicant has submitted application for Abbreviated Notice of Resource Area Delineation (ANRAD) and received a Determination of Applicability from the Amesbury Conservation Commission and there are no pending appeals thereto on that Determination.

8. The applicant has submitted a completed Environmental Notification Form or Draft Environmental Impact Report, as applicable under the Massachusetts Environmental Policy Act (MEPA) and either a0 received the Certificate under MEPA from the Secretary of Energy and Environmental Affairs on ENF or DEIR, as applicable , or b) it has been more than 180 days since the Notice was filed in the Environmental Monitor pursuant to MEPA regulations.

## 6. PRE –APPLICATION SESSION

1. **Pre-Application:** Prior to the submittal of the formal application, a concept plan shall be submitted for a pre-application conference as outlined in subsection 5 above. The Concept Plan is intended to be used as a tool for both the applicant and the PGA to ensure that the proposed Project design will be consistent with the Permit criteria and Design and Performance Standards for each of the applicable local permits. Such Concept Plan should reflect the following:

   a) Overall building envelope areas;

   b) Open space and natural resource areas;

   c) General site improvements, groupings of buildings, and proposed land uses;

   d) Preliminary traffic circulation and proposed infrastructure improvements;

   e) Utilities and Stormwater Management Plan; and

f) Preliminary Building Design and Schematic Drawings.

Depending on the complexity, scale and scope of the project, the applicant may be asked to provide more information listed under Section XI.C.8

## 7. SUBMISSION OF FORMAL APPLICATION

1. **Submittal:**

   a) Once all the requirements of subsection 4 above have been met, an applicant shall submit to the City Clerk's Office, in compliance with M.G.L. Ch. 40A, s.9 a completed Application for a PDS Permit with the required number of copies which will also contain all the materials and fees identified in this subsections and 7 below, and any additional materials as identified by the PGA. The Petitioner shall forward a copy of the time stamped application to the PGA.

   b) The applicant shall submit a signed written statement consenting to the start date of the 180-calendar-day review period from the date that the PGA determines the applicant to have submitted a completed application.

2. **Filing Fee:** An applicant shall submit current application fees along with the required number of copies of the necessary application(s) and required submittals as set forth in the PGA regulations. A PDS application fee of Five Thousand Dollars ($5,000.00) shall also be submitted for projects within a PDOD.

3. **Hearing:** If an application is deemed complete as outlined in sub section 9 below, the PGA shall hold a public hearing on the pertinent permit application under their jurisdiction.

4. **Peer Review:** The applicant shall be required to submit $10,000 with the formal application as deposit towards review fees as allowed under M.G.L. Ch. 44, s53G to allow peer review of the application materials submitted to the Permit Granting Authorities. Such fees shall be held by the City of Amesbury in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, engineers, urban designers, attorneys, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant forthwith.

## 8. APPLICATION MATERIALS FOR REVIEW

1. All PDS projects shall meet the submittal requirements of specific local permits as required for the approval from pertinent PGA(s) including, but not limited to approvals from Planning Board and Conservation Commission. The applicant shall be advised during the pre-application process with the Planning Board about the various permits required and the applications that may have to be filed for local approval. A detailed checklist of documents and number of copies for each permit shall be available in the OCED along with the PDS application.

2. Additional Review Materials: In circumstances related to extensive environmental, public safety, traffic, or visual impacts, the PGA(s) may require additional information that it deems necessary from the applicant(s) to further detail the impact(s). This information shall not affect a determination of application completeness, but shall determine the project's ability to meet applicable project review criteria and development and performance standards.

## 9. APPLICATION COMPLETENESS DETERMINATION PROCESS

Due to the inherent scope, scale, and complexity of PDS projects, and the mandated 180-calendar-day review period for permit applications for PDS projects, ALL such permit applications shall be reviewed for completeness before the local permitting process can commence on the project. The local permitting process shall commence only after the application completeness review has been made as follows:

1. A preliminary determination of a completed application submittal with the necessary documents required for the issuance of permits shall be prepared by the City Planner in consultation with other pertinent City Officials. This preliminary determination is then sent to the pertinent PGA and the Governing Body.

2. The Final determination of an application being complete shall be made by the applicable PGA at their respective public meeting (or their jointly held public meeting). The written determination of the PGA as to the completeness of the application shall be sent to the Governing Body. The Governing Body shall notify the applicant by certified mail within twenty (20) business days from the date of formal submission as to the completeness of all the applications.

3. When an application has been determined to be incomplete, the PGA shall, in writing, identify the deficient submittals and suggested remedies needed to meet the application completeness requirement.

4. For applications determined to be incomplete, the applicant shall have no more than forty five (45) business days from the date the notice of application completeness was mailed by the Governing body to submit the necessary documentation to the applicable PGA. If the applicant fails to provide the materials and information necessary to make the application complete within this stipulated time-frame, the application shall be deemed null and void and summarily denied for lack of information by the applicable PGA. Any resubmission for the same project shall then be deemed as a new application and be subject to all the provisions applicable to new applications in the PDOD and shall begin a new twenty (20) business day completeness review period.

5. Upon final submission of outstanding application materials as determined by the pertinent PGA, the submission will be reviewed for completeness by the OCED. Within twenty (20) business days of receipt of the final submittal of outstanding application materials, a written determination as to the completeness of the application shall be made by the pertinent PGA at their respective public meeting.

6. The twenty (20) business day completeness review period may be waived or extended for good cause upon written request of the applicant with the consent of the Governing body, or upon written request of a PGA with the consent of the applicant.

7. The application completeness determination is made only to confirm that ALL documents required as per pertinent bylaw, ordinance, or regulation and as requested during pre-application conferences have been submitted for each permit for review of the project by the PGA. The validity, completeness and comprehensiveness of the documents and information submitted by the applicant shall be made during the application review process, public comment periods and public hearings, as required.

## 10. REVIEW PROCESS

1. The 180-calender-day review period shall commence the day after notice of completeness stating that the applications has been deemed complete by the PGA is mailed to the applicant.

2. Review of PDS projects involves meeting the approval requirements of pertinent Bylaws and Regulations of the City of Amesbury, specifically and as applicable, Amesbury Zoning Bylaw, the Amesbury Wetlands Regulations, and the Amesbury Subdivision Rules and Regulations.

## 11. DEVELOPMENT AND PERFORMANCE STANDARDS

1. Priority Development Site projects shall meet the specific permit requirements, development and performance standards identified in the bylaw, ordinance, or regulation applicable for that particular sub-application. Each PGA shall determine compliance with these permit requirements, development and performance standards for the respective sub-application prior to final approval of the PDS project.

2. Infrastructure Improvements: At the Applicant's expense, all other off-site infrastructure improvements (including but not limited to roads, pedestrian walkways, drainage, flood control, sewer, water, gas, and electric) shall be addressed as a general condition of approval. To the maximum extent practicable, projects should be designed so that stormwater runoff from the project site does not enter the municipal separate storm sewer (MS4) system.

3. Performance Bond: The PGA shall require a performance bond or surety to assure that the proposed improvements including, but not limited to, utilities, public amenities, landscaping and the site plan are constructed as approved.

4. Inspections during Construction: The PGA shall require the inspection of improvements as per approved site plan and shall require the Applicant to reimburse the PGA for the services of the consultant(s).

5. Before final approval of an application, the PGA may require the applicant to make modifications to the proposed project to ensure that the project review criteria and/or performance standards for the pertinent permits are met.

## 12. PROJECT REVIEW CRITERIA

Priority Development Site projects shall meet the review criteria identified in the bylaw, ordinance, or regulation applicable for that particular sub-application. Each PGA shall review the permit criteria for each sub-application prior to final approval of the PDS project.

## 13. EXTENSION OF THE REVIEW PERIOD

The local permitting process shall be completed within 180-calendar-day review period after the certified notice of completeness is sent, or the twenty (20)-business-day-completeness review period has expired and the applications are deemed to be complete. This period may be waived or extended in certain circumstances in the following manner:

1. For good cause upon written request of the applicant with the consent of the governing body, or upon written request of a PGA with the consent of the applicant.

2. The 180-calendar-day review period may be extended if a previously unidentified permit or review has been determined necessary within the first 150 calendar days of the process. If it is determined that a previously unidentified permit is necessary, the OCED shall send immediate notice of such additional requirements to the applicant by certified mail and copy the Board. The Governing Body may exercise the extension for a maximum of 30 calendar days. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

3. The 180-calendar-day review period may be extended when a PGA determines that:

    a) action by another federal, state or municipal government agency not subject to this act is required before the permit granting authority may act;

    b) pending judicial proceedings affect the ability of the permit granting authority or applicant to proceed with the application; or

    c) enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the application have been commenced.

    In those circumstances, the PGA shall provide written notification to the Secretary and the Board by certified mail. When the reason for the extension is no longer applicable, the PGA shall immediately notify the applicant, the Secretary, and the Board by certified mail, and shall complete its decision within the time period specified in this section, beginning the day after the notice to resume is issued.

4. If Governing Body, in consultation with the PGA, has determined that substantial modifications to the project since the application render the PGA incapable of making a decision on an application, an extension of the 180-calendar-day review period may be granted by the Board for demonstrated good cause at the written request of the PGA. The PGA shall provide terms for the extension including the number of additional days requested. Within ten (10) business days of receipt of the request, the Board, or Permitting Ombudsman if designated by the Board, shall respond to the PGA with an extension determination.

5. If the applicant makes a substantial modification to a project for the purpose of public benefit, the PGA may request an extension from the Board, and if granted, shall make every reasonable effort to expedite the processing of that permit application.

**14. FINAL ACTION**

1. A Priority Development Site (PDS) Project shall be considered to be "administratively" approved if and only if all the sub-application permit approvals required for the project, along with any conditions of approval thereto, have been granted by each PGA reviewing the PDS project (for example: a PDS project application involving a Site Plan Permit, Special Permit, and a Conservation Commission Permit, is administratively approved if and only if the Site Plan application is approved, AND the Special Permit application is approved, AND the Conservation Commission Permit application is approved.

2. Should any sub-application permit be denied, then the Final Action on the PDS Project shall be to "administratively" deny the PDS application (with the reasons stated for such denial) until such time as the failing sub-application is approved by the appropriate permit granting authority. A written letter of administrative approval or denial for a PDS Project will be made by the City Planner within seven (7) days of the date that all sub-applications have been formally decided. PGA(s) shall also issue formal letters of approval or denial in accordance with their respective sub-application decision process.

3. Automatic Grant of Approval: Failure by PGA to take final action on a permit within the 180-calendar-day review period, or properly extended review period, shall be considered a grant of the relief requested of that authority. In such case, within 14 days after the date of expiration of the time period, the applicant shall file with the City Clerk a complete project application, and an affidavit with the City or Town Clerk, setting forth the facts giving rise to the grant and stating that notice of the grant and a copy of the affidavit has been mailed, by certified mail, to all PGA members, project review staff members, and all abutters within 300 ft. of the Priority Development Site.

4. A PGA may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with M.G.L. Ch. 43D.

5. The automatic grant of approval shall not occur,

   a) where the PGA(s) has made a timely determination under sub section 9 above that the application packet is not complete and the applicant does not provide the requested information within forty five (45) calendar days. In this case, the Governing Body shall notify the Board of the discontinuance of the permit process;

   b) the PGA(s) has determined that substantial modifications to the project since the application render the issuing authority incapable of making a decision on an application; and

   c) the PGA(s) has determined that a final application contains false or misleading information. In such event, the PGA(s) must submit a statement of findings to the ZBA by certified mail and copy the applicant by certified mail. If the ZBA finds that the final application contains false or misleading information, such a finding may be appealed in Land Court on a motion of the applicant. Pending a court's ruling, the 180-calendar-day review period clock shall be stopped at the date that such determination was made by the PGA(s). If a court rules in favor of the appellant, the 180-calendar-day review period shall resume. If the court rules in favor of the Governing Body, the 180-calendar-day review period shall be waived.

6. The City Planner shall remain the single point of contact for the approved PDS project until such time as the project is completely built out according to the approved plans and any as-builts as required, have been submitted.

## 15. PERMITS FROM STATE AND FEDERAL AGENCIES

1. PDS projects submitted to the City of Amesbury may also require permitting from the various State regulatory agencies. A standard condition of approval for any PDS sub-application granted by a PGA in the City shall be that all State Permit approvals required for the PDS project shall be in hand by the applicant prior to applying for a building permit.

2. Reviews required under the Massachusetts Environmental Policy Act, Sections 61 to 62H, inclusive, of Chapter 30, or the Massachusetts Historical Commission, Sections 26 to 27C, inclusive, of Chapter 9, shall conclude within 120 calendar days of a state determination of completeness of required review materials, as established by the executive office of environmental affairs in consultation with the state secretary. The aforementioned reviews shall take place concurrently with the 180-calendar-day municipal permitting review process. The Secretary of Environmental Affairs and the State Secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

## 16. PERMIT TRANSFERS AND RENEWALS

Permits shall not be transferred to successors in title, without the expressly written authorization by the permit granting authority or authorities.

## 17. MODIFICATIONS TO APPROVED PLANS

1. A PGA shall inform an applicant within twenty (20) business days of receipt of a request whether the specific modification requested is approved, denied, determined to be substantial or requires additional information for the issuing authority to issue a decision. If additional information is required, the PGA shall inform an applicant by certified mail within twenty (20) business days after receipt of the required additional information whether the modification is approved or denied or that further additional information is required by the PGA in order to render a decision.

2. **Minor Change:** After Project Approvals have been granted under Section XI.R, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of parking spaces or number of commercial units. Such minor changes must be submitted to the PGA(s) on redlined prints of the approved plan, reflecting the proposed change, with application forms, as per regulations of those PGA(s). The PGA(s) may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PGA(s) shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

3. Substantial Change: Those changes deemed by the PGA(s) as substantial change to a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PGA(s) as a new application pursuant to provisions under Section XI.R of the Amesbury Zoning Bylaw. Substantial changes to the approved site plans shall include changes to building design, building layout, parking layout, access driveway location, legal documents, off-site

infrastructure improvement agreements, traffic calming improvements, landscaping plan, building materials, exterior building finishes or any conditions of PGA's approval of the original site plan.

4. Any change that may not satisfy the criteria as defined under subsection 17.2 (Minor Change) and subsection 17.3 (Substantial Change), shall be submitted to the PGA for determination at a regularly scheduled public meeting whether the proposed changes shall be considered minor or substantial changes to the approved project and site plans.

## 18. APPEALS

1. Appeals regarding PDS project decisions shall be governed by the applicable sub-application process for the particular permit review being appealed. For example, an appeal of a Special Permit decision and/or a Site Plan Review decision related to the PDS project shall follow the appeals process identified in Section X of the Amesbury Zoning Bylaw; appeal of a Notice of Intent or an Abbreviated Notice of Resource Area Delineation decision shall follow the defined appeal process identified Section XIII of the Amesbury Wetlands Protection Ordinance, etc.

2. Appeals of a PGA's decision or from an automatic grant of approval shall be filed within twenty (20) calendar days after the last individual permitting decision has been rendered or within twenty (20) calendar days after the conclusion of the 180-calendar-day period, whichever is later. The 180-calendar-day period shall be increased by the number of days in any extension granted as per provisions of Section XI.R.

3. The applicant or any person aggrieved by a final decision of any PGA, or by the failure of that authority to take final action concerning the application within the time specified, whether or not previously a party to the proceeding, or any governmental officer, board, or agency, may appeal to the Division by bringing an action within twenty (20) calendar days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. This section shall not apply to appeals pursuant to Sections 40 and 40A of Chapter 131, which shall continue to be appealed in accordance with said Chapter 131, Chapter 30A and applicable regulations.

4. When hearing appeals under this chapter, the Division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of M.G.L. Ch. 43D. The division shall render a final written decision within ninety (90) days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the superior court department or to the Land Court in accordance with Section 3A of Chapter 185, by bringing action within twenty (20) days after a written decision was or should have been rendered.

## 19. ALLOWED TIMEFRAME FOR PROJECT START AND COMPLETION

1. Unless a Special Permit, Site Plan Review Approval, an ANRAD, an NOI or any other local permit is granted with a more restrictive timeframe for substantial project start, a PDS project permit approval shall be considered to be Null and Void by the applicable permit granting authorities, unless the project is substantially started within two (2) years of approval. Substantial project start shall require: 1) No outstanding notice of violation or non-compliance with the conditions of approval for any and all permits, 2) at least the binder course on the primary access from an existing public way built in accordance with approved plans, 3) a valid and non-expired building permit for at least one primary use building, and 4) all proposed utilities brought and stubbed up to the proposed buildings. Projects considered Null and Void shall be required to go through the entire approval process again as a new PDS project application.

2. Unless a Special Permit, Site Plan Review Approval, Preliminary Subdivision Approval, an ANRAD or an NOI is granted with a more restrictive timeframe for project completion, the approved work for a PDS project permit shall be completed within five (5) years from the date of being approved, unless an extension for the project is granted by all applicable permitting authorities. Conditions of extension, related specifically to work necessary to finish the project may be applied upon said extensions by the applicable PGA.

## 20. ENFORCEMENT

Enforcement of violations of any approvals and conditions of approvals, including violations of any development and/or performance standards identified in this Bylaw [Section XI.R] shall be governed by Zoning Bylaw Section(s) X and XI.C; and to Amesbury's Wetlands Protection Ordinance Section X, as applicable.

## 21. SEVERABILITY

The invalidity of any section or provision of this Bylaw by a Court or Agency of competent jurisdiction shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

## S. SOLAR ENERGY FACILITIES 2012-031 2014-115

### 1. PURPOSE

The purpose of this ordinance is to:

1. provide for the construction and operation of solar energy facilities;

2. provide standards for the placement, design, construction, monitoring, modification and removal of solar facilities that address public safety, minimize impacts on scenic, natural and historic resources of the City;

3. provide adequate financial assurance for the decommissioning of such facilities, and

4. set forth provisions that shall take precedence over all other sections when considering applications related to the expansion, construction, operation, and/or repair of solar energy facilities.

### 2. RENEWABLE ENERGY DEVELOPMENT OVERLAY DISTRICT

1. **Establishment**: The Renewable Energy Development Overlay District, hereinafter referred to as the **"REDD,"** is hereby established as an overlay district that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled "Renewable Energy Development Overlay District." This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the City Clerk.

### 3. APPLICABILITY

1. This section shall apply to all utility-scale or on-site solar facilities proposed to be constructed after the effective date of this section. This section shall also apply to physical modifications to existing solar facilities that materially alter the type, configuration, or size of such facilities or other equipment;

2. For projects developed in accordance with this section, where the provisions of the REDD are silent on a zoning regulation, the requirements of the underlying zoning district shall apply unless contrary to the intent of the REDD;

3. Nothing in Section XI.S shall be construed to prevent the installation of accessory roof-mounted solar photovoltaic installations.

### 4. DEFINITIONS

The following terms as used in this ordinance are defined as follows:

1. ***Solar Energy Facility***: All equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power at a solar photo-voltaic installation. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads.

2. ***On-Site Solar Facility***: A solar facility, which is located at a commercial, industrial, agricultural, institutional, or public facility that will generate electricity on-site

3. ***Large Solar Energy Facility***: A commercial solar facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, appurtenant structures, transformers, service and access roads utilized in connection with the conversion of solar energy into electrical power production facility that has a total rated nameplate capacity of 250 kilowatt (kW) or more.

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

5. ***Permit Granting Authority (PGA):*** For the purpose of this ordinance, the Planning Board shall act as the Permit Granting Authority (PGA) for solar energy projects that require Site Plan Review.

## 5. GENERAL PROVISIONS

An application for a solar energy facility proposed within the REDD shall be reviewed by the PGA for consistency with the provisions of this Section. All facilities are required to comply with the following requirements and provide pertinent documents to the PGA along with the Site Plan Review (SPR) application:

1. **Site Control:** The applicant shall include documentation in the Site Plan Review application of actual or prospective access and control of the project site sufficient to allow for installation and use of the proposed facility;

2. **Dimensional and Density Regulations:** A solar energy facility within the REDD shall comply with the provisions of Section V and VI of the Zoning Bylaw, as amended from time to time, except as follows:

   a. The minimum front and side yard setbacks shall be fifty (50) feet from the property line; and

   b. The minimum lot area shall be one (1) acre.

   c. The required maximum lot coverage may be reduced by 50% provided the proposed facility,
      i. does not result in significant loss of land and natural resources, including farm and forest land;
      ii. is located on vacant, disturbed land, including Brownfields; or
      iii. does not require significant land clearing and changes to natural topography, including earth filling or removal.

3. **Compliance with Laws, Bylaws & Regulations:** The construction and operation of all solar photovoltaic facilities 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 energy facility shall be constructed in accordance with the State Building Code;

4. **Zoning Regulations**: All use, dimensional and other requirements of the provisions of the Zoning Bylaw governing the underlying zoning districts shall remain in full force and effect, except for a project undergoing development pursuant to this section. For projects developed

in accordance with this section, where the provisions of the REDD are silent on a zoning regulation, the requirements of the underlying zoning district shall apply unless contrary to the intent of the REDD.

5. **Building Permit and Building Inspection:** No solar energy facility shall be constructed, installed or modified as provided in the section without first obtaining a building permit. A building permit shall be issued after a Site Plan has been approved by the PGA pursuant to this section;

6. **Fees:** The application for a building permit for a solar energy facility must be accompanied by the fee required for a building permit. A SPR application shall be submitted along with the fees established by the PGA;

7. **Utility Notification:** No ground–mounted solar photovoltaic facility shall be constructed until evidence, satisfactory to the PGA, has been given to the PGA that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar energy facility owner's or operator's intent to install an interconnected customer-owned generator, as well as documentation from said utility that it can and will connect the proposed customer-owner generator into its power grid. Off-grid systems shall be exempt from this requirement.

8. **Proof of Liability Insurance:** The applicant shall be required to provide evidence of liability insurance in an amount, and for the duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility;

9. **Operation, Monitoring and Maintenance**

   a. Operation and Maintenance Plan: A plan for maintenance of access road and storm water controls, as well as general procedures for operational maintenance of the solar energy facility shall be prepared and submitted with the SPR application. The owner or operator of the solar energy facility shall be responsible for all activities identified on said plan until the facility is abandoned or decommissioned.

   b. Minimum Maintenance Responsibilities: The applicant, owner or operator shall maintain the facility in good condition. The individual or entity responsible for maintenance shall be clearly identified in the application. 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 other public safety officials. The owner or operator shall be responsible for the cost of maintaining the solar energy facility and any access road(s) and the cost of repairing any damage occurring as a result of operation and construction.

10. **Safety and Environmental Standards**

    a. Emergency Services: The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. The PGA shall confirm adequacy of emergency access and safety procedures with the Fire Chief prior to approval of any Site Plan for the solar energy facility. 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.

b. 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 solar energy facility or otherwise prescribed by applicable laws, regulations, and bylaws. The limit of work will be shown on the approved Site Plan.

c. Unauthorized Access: The solar energy facility shall be designed to allow access within the area of proposed limit of work to authorized personnel only. Electrical equipment shall be locked where possible.

d. Wildlife Corridors: Solar energy facilities shall be designed and constructed to optimize the maintenance of wildlife corridors;

e. Natural Buffer for Large Scale Projects: An undisturbed buffer shall be maintained between the solar project and the fifty (50) feet setback. This buffer would only be required on the projects that abut houses that would have a direct view of the solar facility. The natural buffer should be maintained at or slightly above the highest level of the solar panels. If the natural vegetative visual buffer would have a detrimental effect on the ability to generate power, an alternative screening buffer pursuant to Section VI may be proposed.

11. **Abandonment or Decommissioning**

a. Removal Requirements: Any solar energy facility which has reached the end of its useful life or has been abandoned, shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. At least thirty (30) days prior to the proposed date of discontinuation of operations, the owner or operator shall notify the PGA and the Building Inspector by Certified Mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

i. Physical removal of all solar photovoltaic structures, equipment, security barriers and transmission lines from the site. Any municipal utility connections shall be disconnected to the satisfaction of the Department of Public Works and the Fire Department.

ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The PGA may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

b. Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy facility shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the PGA. If the owner or operator of the solar energy facility fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date

of decommissioning, the City may enter the property and physically remove the installation.

c. Expiration: A permit issued pursuant to this ordinance shall expire if (i) the solar energy facility is not installed and operational within 48 months from the date the permit is issued; or, (ii) the solar energy facility is abandoned or deemed abandoned pursuant to this ordinance.

d. Violations: It shall be unlawful for any person to construct, install, or operate a solar energy facility that is not in compliance with this Section or with any condition contained in a permit issued pursuant to this Section. Solar energy facilities installed prior to the adoption of this Section are exempt until any alterations or expansion to the existing systems are made at which time the provisions of this ordinance shall apply to such alterations and expansions.

12. **Financial Surety:** The Applicant shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility, of an amount and form determined to be reasonable by the PGA. Such surety will not be required for municipal and state-owned facilities. The proponents shall provide a security sufficient to cover the cost of removal for the first ten (10) year period. Every five (5) years thereafter, the proponent shall return to the PGA to renew the surety in the amount sufficient to cover the costs of removal of the facility by the end of that time. The applicant shall submit a fully inclusive estimate of the costs associated with removal of the facility as outlined in this Section and prepared by a professional engineer. The amount shall include a mechanism for Cost of Living Adjustment.

## 6. SITE PLAN REVIEW PROCEDURES

1. Prior to construction, installation or modification of an existing facility within the REDD, a Site Plan Review application for a Solar Energy Facility shall be made pursuant to the provisions of Section XI.C.4.c.

## 7. MATERIALS FOR SUBMISSION

1. In addition to the Site Plan Review requirements established under Section XI.C.5 and 6 of the Zoning Bylaws, the materials listed in this section must also be included in a Site Plan Review Application for a solar energy facility proposed within the REDD. These include:

a. **Proposed Installation Plan:** In addition to the information required pursuant to Section XI.C.5, A site plan drawn at a scale of 1" = 40', prepared by a registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts, who shall sign and place their seal upon such a plan and all pertinent documents, shall include the following information:

i. Location of the proposed solar system panels, arrangement of arrays, appurtenant structures, transmission infrastructure, foundations, and associated ground equipment, fencing, exterior lighting and access to them for maintenance and emergencies;

ii. Outline of all existing buildings, including purpose (e.g. residence, garage, storage shed, etc.) on site parcel and all adjacent parcels within 300 feet. Distance from the solar facility to each building shall also be shown on the plan;

iii. Any overhead utility lines;

iv. The right-of-way of any public road that is contiguous with the property and provides the required frontage for the subject property;

v. Proposed service and access driveway and roads, either temporary or permanent;

vi. Location and approximate height of tree cover and any potential shading from nearby structures or vegetation;

b. **Electrical Diagrams:** One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) compliant disconnects and over current devices;

c. **Component Description:** Documentation of the major system components to be used, specifications of the photovoltaic panels including manufacturer and model, mounting system, collection, storage and supply equipment, and other associated components required for the conversion of solar energy into electrical energy production;

d. **Contact Information:** Name, address, and contact information for proposed system design engineer and installer and project proponent(s) and operator of the facility, if different from Property Owner;

e. **Legal Documents:** Copies of existing and proposed legal documents pertaining to public and private easements, covenants and agreements affecting the use of the site parcel;

f. **Other Permits:** Copies of other local permit approvals previously granted for existing uses shall be submitted with the SPR application;

g. **Operation and Maintenance Plan:** An operation and maintenance plan pursuant to this Section;

h. **Stormwater Management Report:** Complete documentation of compliance with the Massachusetts Stormwater Standards with associated background information and engineering calculations;

i. **Liability Insurance:** Proof of liability insurance pursuant to this Section;

j. **Financial Surety**: Description of financial surety pursuant to this Section;

k. **Very Large Solar Energy Facilities**: Facilities with a name plate capacity of one (1) megawatt (MW) or more, the PGA may also require that the following documents be provided in addition to those noted above:
   i. Visualizations: The Planning Board may select up to four sight lines, including from the nearest building with a view of the solar facility for pre- and post-construction view representations, Sites for the view representations shall be selected from populated areas proximate to the proposed solar energy facility. View representations shall have the following characteristics:

a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the solar facility (e.g. superimpositions of the solar facility onto photographs of existing views).
b) All view representations will include existing, or proposed, buildings or tree coverage.
c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.)

ii. Site Improvement Plan: A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, screening or structures, security fencing details.

iii. Technical Documentation: All supporting documents and calculations used for the design of the solar facility in order to reach the nameplate capacity of the proposed facility; and

iv. Structural drawings: Engineering drawings for foundations and structures with a report from a registered PE showing that the installation of all structures for the proposed solar facility shall be in accordance with the most recent version of the State Building Code.

## 8. DEVELOPMENT AND PERFORMANCE STANDARDS

Any proposed solar energy facility within the REDD shall be subject to the development and performance standards, as set forth below, for the placement, design, construction, monitoring, modification and removal of solar facilities that address public safety and minimize impacts on scenic, natural and historic resources of the City. Whereas all projects must demonstrate compliance with the provisions of Section XI.C.8, the following standards shall be in addition to or take precedence over design standards of that Section for the following criteria:

1. **Lighting:** Lighting of solar energy facilities shall be consistent with local, state and federal law. Lighting of other parts of the facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. Lighting fixtures shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. Any free-standing poles shall be no more than twelve (12) feet in height from the adjacent grade at the base of the pole to the highest point of the pole or lighting fixture.

2. **Landscaping:**

   a. All proposed vegetative screening and/or fencing, landscaping and plant design shall be shown on a Landscape Plan, which plan shall include details of the types and size of plant materials. To the extent feasible or practicable, landscaping shall be designed in an environmentally sensitive manner with non-invasive drought tolerant plants, so as to reduce irrigation needs and heating and cooling needs; and

   b. All landscaped areas shall be properly maintained and monitored for at least two growing seasons. Shrubs or trees which die shall be replaced by the applicant or property owner within one growing season. The long term maintenance of approved landscaping shall be

the responsibility of the individual or entity identified in the application for facilities maintenance purposes.

c. Where a proposed solar energy facility abuts a residential property, the abutting property shall be visually screened from the project through any one or combination of the following: location, distance, plantings, existing vegetation, fencing (not to exceed 6 feet).

3. **Signage:** Location, materials and details of proposed signs shall be submitted. Signs on solar energy facilities shall comply with the provisions of Section VII of the Amesbury's Zoning Bylaws and shall be limited to:
   a. Any sign necessary to identify the owner and provide a 24-hour emergency contact phone number and warn of any danger;

   b. Educational signs providing information about the facility and the benefits of renewable energy;

4. **Advertising:** Solar energy facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy facility.

5. **Utilities and Stormwater Drainage:** Reasonable efforts, as determined by the PGA, 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.

6. **Appurtenant Structures:** All appurtenant structures to solar energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/joined or clustered to avoid adverse visual impacts. Architectural elevation drawings for structures exceeding 480 square feet of gross floor area shall be submitted with the SPR application.

## 9. SITE PLAN REVIEW CRITERIA

In the review and evaluation of the Site Plan and in making a final determination, the PGA shall consider the following criteria:

1. Provide adequate access to each structure for fire and emergency service equipment;

2. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

3. Minimize the volume of cut and fill, the number of removed trees that are six (6) inches or more in caliper, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution;

4. Provide adequate storm water management and other utilities consistent with the functional requirements of the Amesbury Subdivision Rules and Regulations, Department of Environmental Protection, Massachusetts Stormwater management Handbook (as revised);

5. Minimize obstruction of scenic views from publicly accessible locations;

6. Maximize pedestrian and vehicular safety both on the site including ingress and egress;

7. Minimize glare from headlights and lighting intrusion;

8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places; and

9. Ensure compliance with the provisions of this Zoning Bylaw, including parking, signs, landscaping, environmental standards and other pertinent sections.

**10. FINAL ACTION**

1. No large scale solar energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a Site Plan Approval from the PGA and a building permit from the Building Inspector;

2. The PGA may grant a Site Plan Approval and require that certain requirements be met as conditions of approval, after it finds in writing that
   a. the specific use is an appropriate location for such use;
   b. a nuisance is not expected to be created by the use;
   c. adequate and appropriate facilities will be provided for the proper operation and maintenance of the use;
   d. The proposed solar energy facility complies with all requirements set forth in this section; and
   e. The facility shall be constructed and operated in a manner that minimizes adverse visual, safety and environmental impacts.

**11. WAIVERS:**

The PGA may waive, by an affirmative vote of the majority of the PGA any of the submittal and design requirements if it determines that strict compliance with those submittal and design requirements, because of the size or unusual nature of the proposed building(s) or structure(s) may not be in the public interest.

**12. MODIFICATIONS TO APPROVED SITE PLANS:**

1. Modifications: All material modifications to a solar energy facility made after issuance of the required permit shall require approval by the PGA as provided in this section; and

2. Modifications to an approved Site Plan shall be allowed upon submission of a written description to the PGA of the proposed modifications. The request for modification shall be subject to the submittal, review and hearing procedures as required for new filings unless the PGA finds that the proposed modifications satisfy the review criteria and the Site Plan as modified would be consistent with the originally approved plan and therefore a new public hearing may not be required.

**13. APPEALS:**

The decision of the PGA and/or Building Inspector made on any project subject to the provisions of this Bylaw (Section XI.S) may be appealed pursuant to the provisions of Section X of the Bylaw.

## 14. ENFORCEMENT

Enforcement of violations of any approvals and conditions of approvals, including violations of any development and/or performance standards identified in this Bylaw (section XI.S) shall be governed by Section X of the Bylaw;

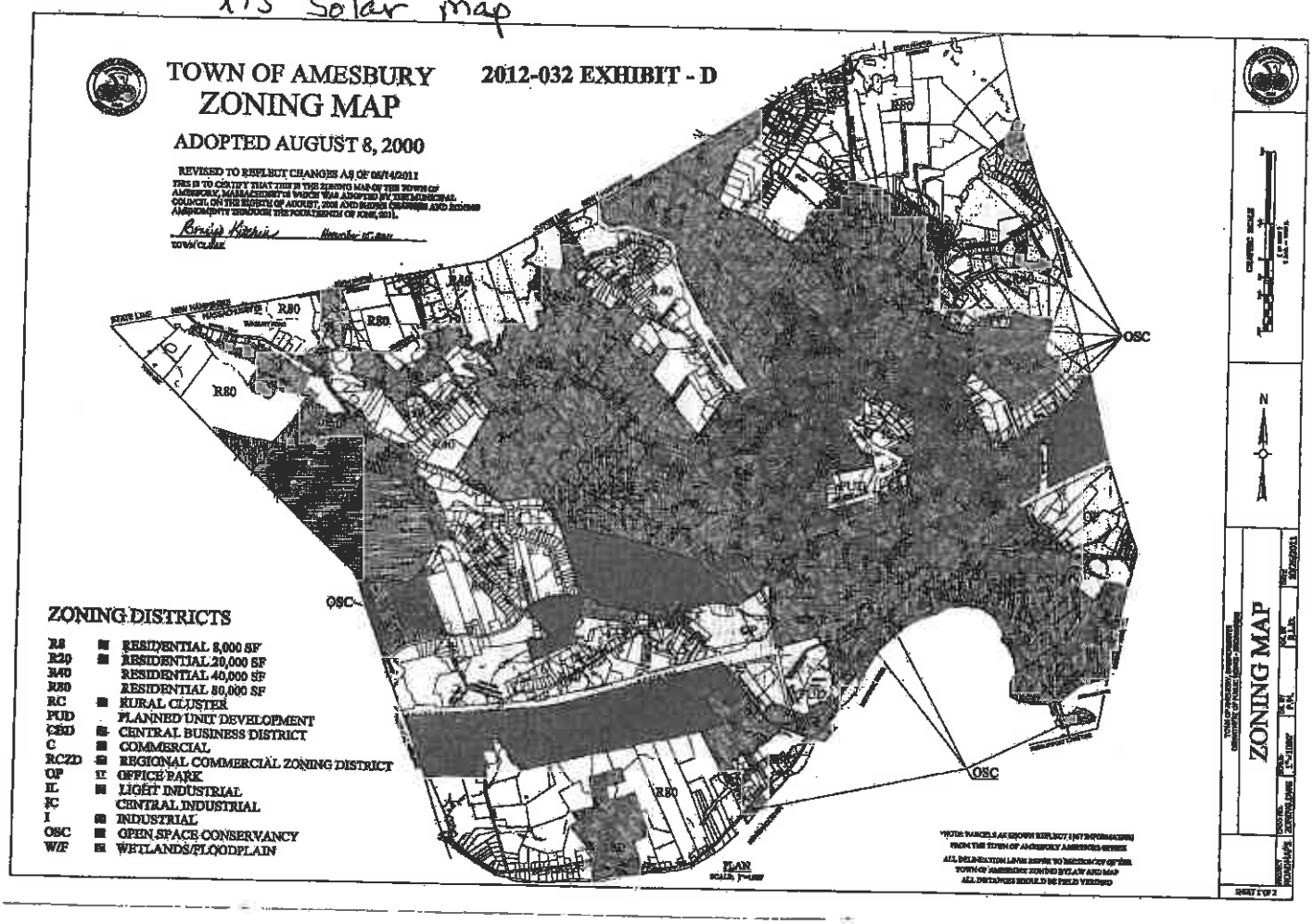
## 15. SEVERABILITY

The invalidity of any section or provision of this Bylaw by a Court or Agency of competent jurisdiction shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

## 16. ISSUANCE OF BUILDING PERMIT:

No building permit for a large scale solar energy facility shall be issued until the PGA has rendered its decision on the Site Plan Review application. Any site clearing or disturbance done on a site ultimately proposed to be a solar energy facility without a Building Permit shall be deemed improper clearing, a violation of the provisions of the Amesbury Zoning Bylaw and shall be enforced pursuant to the provisions of Section X of the Bylaw.

X15 Solar map



# SECTION XI.T - COMMERICAL FASHION RETAIL DISTRICT

## 1. PURPOSE

The purpose of this ordinance is to direct the development of a Commercial Fashion Center toward achieving the following outcomes:

- Encourage the development of a Commercial Fashion Center to increase the City's current geographic economic market reach in a manner that will bring additional customers into the community; and
- Develop the property with uniform and comprehensive thematic building plan, with a diversity of tenants, applying a master-planned approach of compact development that is pedestrian oriented and promotes the historic value and character of the area; and
- Expand the City of Amesbury's reputation as an economic center by attracting national brand businesses; and
- Provide a substantial increase in tax revenue over the current vacant land.

## 2. COMMERCIAL FASHION CENTER OVERLAY DISTRICT

1. **Establishment**: The Commercial Fashion Center Overlay District, hereinafter referred to as the "**CFCOD**," is hereby established as an overlay district that is superimposed over the underlying zoning OP district (s) and is shown on the Zoning Map as set forth on the map entitled "Commercial Fashion Center Overlay District." This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the City Clerk.

## 3. APPLICABILITY

1. This section shall apply to development within the area of the CFCOD as may be applicable to applications for uses allowed within this section.

2. For projects developed in accordance with this section, where the provisions of the CFCOD are silent regarding a zoning regulation, the requirements of the underlying zoning district shall apply unless contrary to the intent of the CFCOD;

## 4. DEFINITIONS

The following terms as used in this ordinance are defined as follows:

1. Fashion Centric Business: A retail business focused on providing high quality shoes, sportswear, clothing, fine leather goods, and accessories predominantly comprised of national and international brands.

2. Retail Village: A shopping area featuring a variety of shops surrounding an open-air concourse connecting courtyards and plazas reserved for pedestrian traffic.

3. CFC Development Site: A site meeting the dimensional requirements for the CFCOD contiguous properties containing; access roads, parking, drives, buildings, storm water management, wetlands, pedestrian corridors and appurtenant facilities to support a Commercial Fashion Center.

4. Commercial Fashion Center: A grouping of predominantly Fashion Centric Businesses planned and designed on a development site with a mix of retail structures containing individual and multi-tenant buildings, organized in a village theme that is designed in the form and manner common to a community architectural theme.

5. Food Court: A collection counter based food vendors accessed by a common internal area providing general seating not assigned to one food vendor and with the majority of vendors not providing table service.

6. Housewares and Specialty Retail: High quality housewares, specialty gifts, as well as home goods and décor.

## 5. GENERAL PROVISIONS

An application for a Commercial Fashion Center proposed within the CFCOD shall be reviewed by the Permit Granting Authority "PGA" for consistency with the provisions of this Section. All facilities are required to comply with the following requirements and provide pertinent documents to the "PGA" along with the Site Plan Review ("SPR") application:

1. **Site Control:** The applicant shall include documentation in the Site Plan Review application of actual or prospective access and control of the project site sufficient to allow for construction of the proposed facility;

2. **General Use Regulations:** A Commercial Fashion Center within the CFCOD shall comply with the provisions of Section V and VI of the Zoning Bylaw, as amended from time to time, except as follows:

a. The allowed use for the CFCOD zone is limited to a Commercial Fashion Center on a development site; and
b. The Commercial Fashion Center may contain a Food Court, Food Kiosks, and individual counter-type food vendors comprising not more than 10% of the development site total building square feet. The development site shall not contain a restaurant with separate entrances, seating, and table service, and;
c. To focus the development on Fashion Centric Businesses the Housewares and Specialty Retail in a Commercial Retail Center shall not exceed 20% of the of the development site total building square feet.

3. **Dimensional Requirements:** A Commercial Fashion Center within the CFCOD shall comply with the provisions of Section V and VI of the Zoning Bylaw, specifically the Dimensional Table contained therein, as amended from time to time, except as follows:
a. Setbacks between buildings shall be at a minimum twenty five (25) feet or as necessary to meet the requirements of the regulations relating to building codes, and fire protection.
b. The maximum building size for multiple tenant buildings shall be 110,000 square feet.
c. The maximum building size for an individual tenant building shall be 35,000 square feet.
d. The maximum aggregate square feet of buildings on the site shall not exceed 500,000 square feet.

e. Buildings shall be grouped in a form and manner to establish a retail village with connecting outdoors walkways and plazas formed by the arrangement of buildings.
f. Buildings, walkways, and plazas shall be of a dimension to create a pedestrian scale environment commensurate to the applicable occupancy, circulation, access requirements, and number of visitors planned for the site.

4. **Compliance with Laws, Bylaws & Regulations:** The construction and operation of all improvements within the CFCOD shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, requirements. All buildings and fixtures forming part of the project improvements and facilities shall be constructed in accordance with the State Building Code;

5. **Zoning Regulations**: All use, dimensional and other requirements of the provisions of the Zoning Bylaw governing the underlying zoning districts shall remain in full force and effect, except for a project undergoing development pursuant to this section. For projects developed in accordance with this section, where the provisions of the CFCOD are silent on a zoning regulation, the requirements of the underlying zoning district shall apply unless contrary to the intent of the CFCOD. Applicants under this section may not apply for uses from the underlying zoning to be located on within the same minimum property area.

6. **Building Permit and Building Inspection:** No building shall be constructed, installed or modified as provided in the section without first obtaining a building permit. A building permit shall be issued after a Site Plan has been approved by the PGA pursuant to this section;

7. **Fees:** Where applicable the application for a building permit for the CFCOD must be accompanied by the fee required for a building permit. A SPR application shall be submitted along with the fees established by the PGA;

**6. SITE PLAN REVIEW REQUIRED**
Prior to construction, installation, or modification of an existing facility within the CFCOD, a Site Plan Review application for a CFCOD development shall be made, and approval acquired pursuant to the provisions of Section XI.C.

**a. Additional Requirements for CFCOD: In addition to the requirements for Site Plan review as cited above the CFCOD eligible project shall demonstrate consistency with the CFCOD Design Guidelines, as maybe amended, which are incorporated herein by reference.**

**7. PROCESS AND FINAL ACTION**
Shall be commensurate with SECTION XI.R – Priority Development Overlay District (PDOD) (Under M.G.L. Ch. 43D) and Site Plan Review, Section XI.C item 10 as maybe applicable. Where there is a conflict between these sections the Priority Development Overlay District shall apply.

**8. WAIVERS:**
The PGA may waive, by an affirmative vote of the majority of the PGA any of the submittal and design requirements if it determines that strict compliance with those submittal and design requirements, because of the size or unique nature of the proposed building(s) or structure(s) may not be in the public interest.

**9. MODIFICATIONS TO APPROVED SITE PLANS:**
1. Modifications: All material modifications to a Commercial Fashion Center made after issuance of the required permit shall require approval by the PGA as provided in this section; and
2. Modifications to an approved Site Plan shall be allowed upon submission of a written description to the PGA of the proposed modifications. The request for modification shall be subject to the submittal, review and hearing procedures as required for new filings unless the PGA finds that the proposed modifications satisfy the review criteria and the Site Plan as modified would be consistent with the originally approved plan and therefore a new public hearing may not be required.

**10. APPEALS:**
The decision of the PGA and/or Building Inspector made on any project subject to the provisions of this Bylaw (Section XI.S) may be appealed pursuant to the provisions of Section X of the Bylaw.

**11. ENFORCEMENT**
Enforcement of violations of any approvals and conditions of approvals, including violations of any development and/or performance standards identified in this Bylaw (Section XI.S) shall be governed by Section X of the Bylaw;

**12. SEVERABILITY**
The invalidity of any section or provision of this Bylaw by a Court or Agency of competent jurisdiction shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

**13. ISSUANCE OF BUILDING PERMIT:**
No building permit for a Commercial Fashion Center facility shall be issued until the PGA has rendered its decision on the Site Plan Review application. Any site clearing or disturbance done on a site ultimately proposed to be a Commercial Fashion Center without a Grading Permit shall be deemed improper clearing, a violation of the provisions of the Amesbury Zoning Bylaw and shall be enforced pursuant to the provisions of Section X of the Bylaw.

## Section XI.01.1 MEDICAL MARIJUANA OVERLAY DISTRICT

**1.01** *Purpose:* The purpose of the Medical Marijuana Overlay District is to provide for the limited establishment of Registered Marijuana Dispensaries in as much:

a) As they are authorized pursuant to state regulations set forth at 105 CMR 725.000 and M.G.L. Chapter 369 of the Acts of 2012, Implementation of an Act for the Humanitarian Medical Use of Marijuana,
b) As nothing in that Act or its implementing regulations at 105 CMR 725 supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of Marijuana for nonmedical purposes,
c) That the state regulation at 105 CMR 725.600 allows for lawful local oversight and regulation, including fee requirements,
d) To reduce the challenging threats to public health and safety found to have been presented by Registered Marijuana Dispensaries and similar clinics in other jurisdictions,
e) To prevent the illegal sale and use of marijuana to protect the public welfare, health and safety of the residents of Amesbury,
f) That Registered Marijuana Dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations provide for the placement of RMDS in locations suitable for lawful medical marijuana facilities,
g) To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMDs, and
h) Where they may be readily monitored by law enforcement for health and public safety purposes.

**2.01** *Establishment*. The Medical Marijuana Overlay District, hereinafter referred to as "MMOD," is hereby established as an overlay district superimposed over the underlying zoning districts shown on the official Zoning Map as Industrial (I) and Light Industrial (IL) as set forth on the map entitled "Medical Marijuana Overlay District." This map is hereby made part of the Zoning Bylaw and the Overlay District Zoning Map and is on file in the Office of the City Clerk.

**3.01** *Definitions*. For the purpose of this regulation, the following words shall have the following meanings. Where not expressly defined in the Zoning Bylaws, terms used herein shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language:

105 CMR 725.000: State Regulations, as amended from time to time and promulgated by Massachusetts Department of Public Health by which it shall approve, register and control the establishment of Registered Marijuana Dispensaries in Massachusetts.

Applicant: The individual or a non-profit entity that has received a provisional or final certification of registration from Massachusetts Department of Public Health to operate a Registered Marijuana Dispensary and is submitting the application to the Planning Board.

Business Agent: An individual who has been designated by the owner or operator of any Registered Marijuana Dispensary (RMD) to be the manager or otherwise in charge of said RMD.

Cultivation Site: A Registered Marijuana Dispensary (RMD) that exclusively cultivates marijuana pursuant to 105 CMR 725.105(B)(1)(c) such that all phases of cultivation take place in designated, locked, limited access areas that are monitored by a surveillance system, the specific detailed requirements of such system being as stated in 105 CMR 725.110(D)(1)(d) through (i). It may also process (including development of related products such as edible Marijuana Infused Products, tinctures, aerosols, oils, or ointments), transport and distribute to other RMDs that dispense marijuana. All portions of the RMD shall be non-mobile and shall not have on-site retail sales or make off-site deliveries to registered Qualifying Patients as defined in 105 CMR 725 or their Personal Caregivers from this site. Any accessory retail sales at such locations may only be allowed by special permit issued by the Planning Board pursuant to the provisions of Section XI.01.1.

Department or MDPH: Massachusetts Department of Public Health.

Dispensary Agent: A board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana pursuant to 105 CMR 725.000.

Hardship Cultivation Registration: A registration issued to a registered Qualifying Patient under the requirements of 105 CMR 725.035.

Host Community Agreement: An agreement entered into by the City of Amesbury and the non-profit entity registered with MDPH to operate a Registered Marijuana Dispensary in Amesbury.

License: A license issued by the City of Amesbury to be renewed annually, that permits a Registered Marijuana Dispensary to operate at a permanent non-mobile location in the City of Amesbury.

License Holder: Any person or entity engaged in the operation of a RMD or sale of marijuana and who applies for and receives a License or any person who is required to apply for a License pursuant to local regulations, or his or her business agent.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used solely for personal consumption are not Non-Residential RYO machines.

Permit: A special permit and/or site plan approval granted by the Planning Board.

Permit Holder: Any person or entity that has been granted a special permit and/or site plan approval by the Planning Board.

Protected Uses: These are facilities in which children and minors commonly congregate. Such a facility includes dance schools, gymnastic schools and similar facilities if children commonly congregate there in a structured manner. It includes facilities where services or programs targeting children or youth take place. It includes a private home housing a family day care center, but not a private home where children happen to live. It includes a city park if the park includes play structures intended for children to

use. It includes public or private outdoor recreational facilities where programs targeting children or youth take place. When conducting this analysis, the Board shall consider whether minors congregate at a site according to schedule, how often they congregate, and whether the purpose of congregating is an activity designed for or targeted to children.

Registered Marijuana Dispensary: Medical Marijuana Treatment Center, also known as RMD, shall mean an establishment operated by a non-profit entity and properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Self-Service Display: Any display from which customers may select a marijuana product without assistance from a Dispensary Agent or store personnel.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

**4.01.1** *Allowed Uses.*
*a.* Notwithstanding the use limitations of the underlying zoning district or any other overlay zoning district, a Registered Marijuana Dispensary as defined herein shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit and site plan approval by the Planning Board, subject to the requirements set forth in this Section.

b. A RMD location that has been registered with MDPH only as a cultivation site shall be allowed by Site Plan Approval by the Planning Board subject to the requirements set forth in this Section.

**4.01.2** *Prohibited Uses:* At any RMD, the sale of marijuana from self-service displays, vending machines or Non-Residential Roll-Your-Own machines shall be prohibited.

**5.01** *Dimensional Requirements*
Except where it is explicitly stated otherwise in this Section, a Registered Marijuana Dispensary shall conform to the dimensional requirements applicable to non-residential uses within the base and overlay zoning districts.

**6.01** *Eligibility*

**6.01.1** *Building.* A Registered Marijuana Dispensary, including all cultivation sites, as defined herein shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified patients pursuant to applicable state and local regulations.

**6.01.2** *Location.*
1. The site is located at least five hundred (500) feet distant from the following protected uses (*facilities in which children/minors commonly congregate)*:
    1. school, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;

2. Child Care Facility, including daycare center, preschool or afterschool facility,
3. Library,
4. Playground,
5. Public Park,
6. Youth center,
7. Public swimming pool,
8. Indoor/Outdoor recreation facilities where organized sports are held or
9. Any similar protected use determined by the Planning Board to be a facility in which minors and youth commonly congregate.

2. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the principal or primary structure in which the proposed RMD is located.

3. If it is determined by the Planning Board that the proposed Site Plan provides sufficient buffers from such protected uses such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary, the distance requirement from these protected uses may be reduced up to twenty five percent (25%) but only if:

a) the applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality; and
b) The applicant has entered into a Host Community Agreement (HCA) with the City to further demonstrate that the RMD will employ stringent security measures to prevent diversion of medical marijuana to minors and others who are not qualifying patients pursuant to 105 CMR 725.004

**7.01** *Application Requirements*.

**7.01.1** Application: An application for a proposed RMD shall be filed with the Planning Board in accordance with the procedures outlined in Section XI.01.1 of this Bylaw and accompanied with the appropriate fees as outlined in Planning Board schedule of application fees for all projects.

**7.01.2.a** Special Permit Procedure: The special permit shall conform to this title and to M.G.L. Chapter 40A, Section 9, and to regulations which the Planning Board shall adopt from time to time for carrying out its requirements under this title. An application for special permit under this Section shall be submitted and administered in accordance with the provisions of Section X.J of the Amesbury Zoning Bylaw.

**7.01.2.b** Site Plan Review (SPR) Procedure: An application for Site Plan Review shall be submitted and administered in accordance with the provisions of Section XI.C of the Amesbury Zoning Bylaw. Site Plan Approval for a RMD shall be subject to the requirements indicated herein and shall be in addition to the provisions of Section XI.C

**7.01.3** Materials for Review: In addition to the materials required under Section XI.C.4, an application to the Planning Board shall include, at a minimum, the following information:

(a) Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, the square footage available and that describes the functional

areas of the RMD, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

(b) Service Area: A map and narrative describing the area proposed to be served by the Registered Marijuana Dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other Registered Marijuana Dispensaries exist or have been proposed within the expected service area.

(c) Transportation Analysis: A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.

(d) Context Map: A map depicting all properties and land uses within a one thousand-foot (1,000') radius (minimum) of the project site, whether such uses are located in Amesbury or within surrounding communities, including but not limited to, all protected uses such as educational uses, city parks, playgrounds, daycare, preschool and afterschool programs.

(e) Site Plan: A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and landscape design including landscape buffers along abutting properties and public ways.

(f) Building Elevations and Signage: For all new buildings, architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required. For existing buildings and structures, any changes to the exterior of the building shall be shown along with location of proposed entrances, loading areas and signage.

(g) Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health. This information shall include, but not limited to:

1. A copy of its registration as an RMD from the Massachusetts Department of Public Health ("DPH");
2. a description of the security measures, including employee security policies, approved by DPH for the RMD;
3. a copy of the emergency procedures approved by DPH for the RMD;
4. a copy of the policies and procedures for patient or personal caregiver home delivery approved by DPH for the RMD;
5. a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
6. a copy of proposed waste disposal procedures; and
7. a description of any waivers from DPH regulations issued for the RMD.

**8.01** *Design and Performance Standards*

**8.01.1** For the purposes of this Bylaw, the provisions of Section XI.C.8 shall apply unless noted otherwise in this Section.

**8.01.2** *Signage*. One building mounted sign not to exceed twenty (20) square feet shall be allowed for any one location. No other signage identifying the activity or products associated with the RMD shall be allowed. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

**8.01.3** *Public Safety*. A detailed RMD facility operations plan, including but not limited to, fire protection, waste disposal, security and hours of operation shall be provided with sufficient information to the satisfaction of the Police and Fire Department. Upon review by local public safety and law enforcement officials, additional information may be required from the applicant. The Planning Board may require safety measures in addition to the minimum requirements stated in MDPH regulations.

**9.01** *Special Permit Criteria*. In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section X.J of the Amesbury Zoning Bylaw, the Planning Board shall find that the following criteria are met:

(a) The Registered Marijuana Dispensary is located to serve a regional need for reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been so established by the Massachusetts Department of Public Health through its policies regulating medical marijuana.

(c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.

(d) Traffic generated by client trips, employee trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential Uses.

(e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

(f) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

**10.01** *Conditions of Approval*. The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any permit granted under this Bylaw:

**10.01.1** *Registration*. All permitted Registered Marijuana Dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a

Registered Marijuana Dispensary that is not properly registered with the Massachusetts Department of Public Health.

**10.01.2** *Limitation of Approval.* A special permit and/or site plan approval authorizing the establishment of a Registered Marijuana Dispensary shall be valid only for the registered entity to which the special permit and/or site plan approval was issued, and only for the site on which the Registered Marijuana Dispensary has been authorized by special permit and/or site plan approval. If the registration for a Registered Marijuana Dispensary has not been renewed or has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay District, a new special permit and/or site plan approval shall be required prior to issuance of a Certificate of Occupancy. A copy of the current and valid MDPH registration and any renewals thereafter shall be submitted to the Zoning Compliance Officer and shall always be available at the operations site.

**10.01.3** *Operations and Security Measures.* The following requirements shall be conditions of approval and the permit holder agrees to comply with the provisions as a condition of operating a RMD:

(a) Duress alarm, panic alarm, or holdup alarm must be connected to local public safety or law enforcement – 105CMR 725.110(D)(1)(c)
(b) Hours of operation, including dispatch of home deliveries– 105CMR 725.105(A)(3)(a)
(c) Diverted marijuana shall be reported to law enforcement officials – 105CMR 725.110(A)(15)(a)
(d) Access to surveillance areas is limited to persons that are essential to surveillance operations, including law enforcement authorities acting within their lawful jurisdiction –105CMR 725.110(D)(4)
(e) Regarding transportation of marijuana, any unusual discrepancy in weight or inventory must be reported by the RMD to local law enforcement within 24 hours – 105CMR 725.110(E)(2)(c)
(f) Each dispensary agent shall carry his or her Department-issued registration card at all times when transporting marijuana and shall produce it to the Department's authorized representative or law enforcement official upon request – 105CMR 725.110(E)(9)
(g) A RMD shall report to local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents pursuant to 105CMR 725.110(F), that occur during transport, within 24 hours – 105CMR 725.110(E)(10)
(h) A RMD shall report to local law enforcement within 24 hours –105CMR 725.110(F)(1):
    1. Discrepancies identified during inventory, diversion, theft, loss, and any criminal action involving the RMD or a dispensary agent;
    2. Any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person;
    3. Unauthorized destruction of marijuana;
    4. Any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents;
    5. An alarm activation or other event that requires response by public safety personnel;
    6. The failure of any security alarm system due to loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and
    7. Any other breach of security.

(i) Information held by the Department about applicants for registration as a qualifying patient, personal caregiver, or dispensary agent, and registered qualifying patients, personal caregivers, and dispensary agents may be released by the MDPH to law enforcement personnel for the sole purpose of verifying a cardholder's registration and certification - 105CMR 725.200(B)(4).

(j) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of hearing, or final action issued by MDPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.

(k) The permit holder shall provide to the Zoning Enforcement Officer and the Chief of Police, Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

(l) The permit holder shall enter into a Host Community Agreement (HCA) with the City of Amesbury. The HCA shall address any known and additional impact of the RMD on the City's public safety and infrastructure, and any other stipulations as deemed necessary by the Mayor of the City of Amesbury, including a Community Impact Fee.

**10.01.4** *Validity of Permits and Cessation of Operations.* The validity of permits granted to operate a RMD shall be as follows:

(a) The special Permit shall lapse within three years of its issuance. The use at the address listed on the permit shall no longer be allowed under the zoning bylaw. The entity may bring the project under compliance upon renewal or re-issuance of the permit to operate a RMD. An application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.

(b) The special permit or a site plan approval shall be limited to the permit holder and shall lapse if the permit holder ceases operating the RMD. Any changes to the scope and scale of operations or other material facts stated on the initial application to register the RMD with MPDH, or renewal of registration thereafter, shall be submitted to the PGA and local Licensing Authority. If the PGA determines that those are substantial changes to the original approval, an application for major modification of the current permit shall be submitted by the permit holder for review and approval.

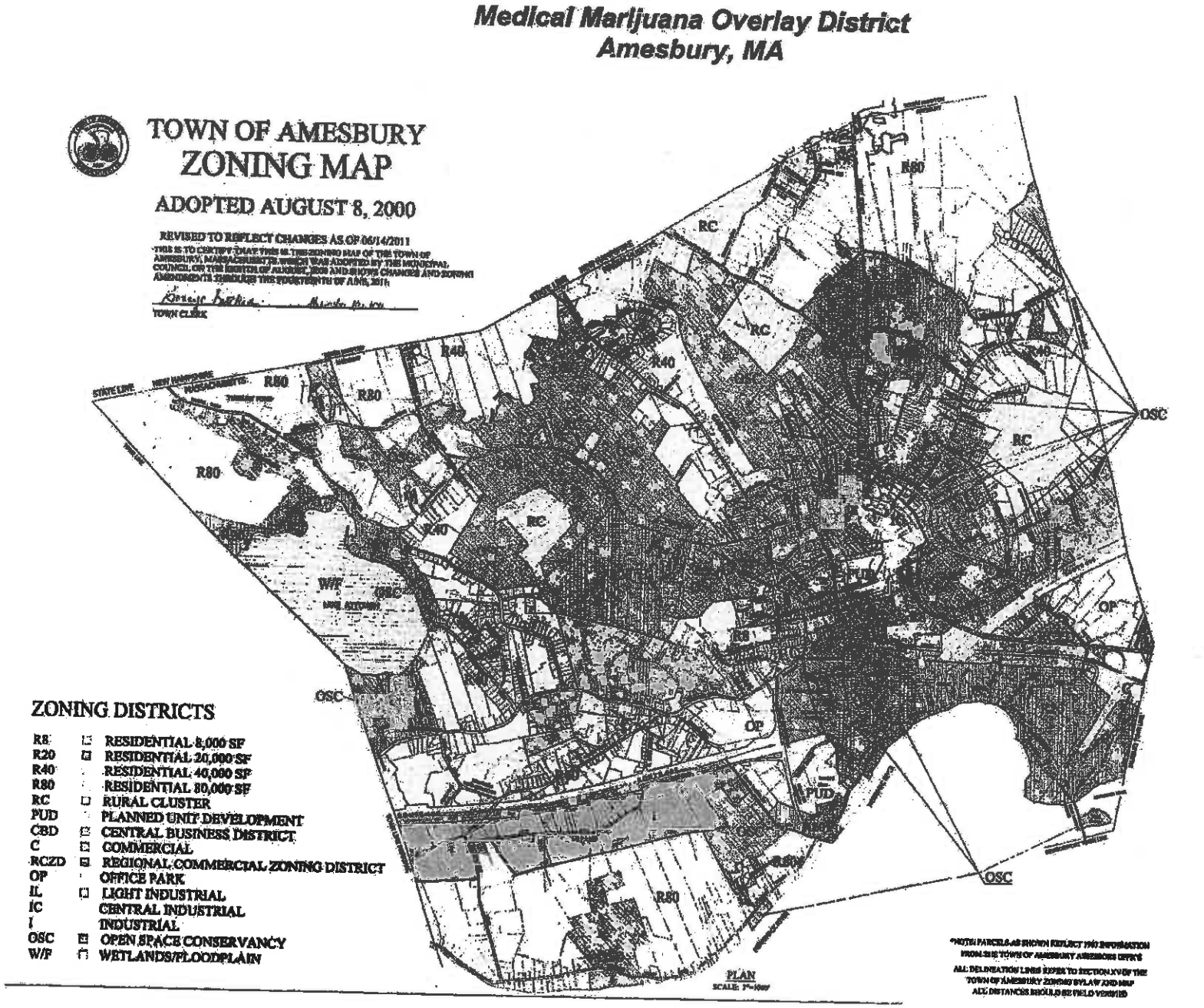
(c) The special permit or a site plan approval shall lapse upon the expiration or termination of the permit holder's registration by MDPH.

(d) The permit holder shall notify the Zoning Enforcement Officer and PGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with MDPH.

**11.01** *Prohibition Against Nuisances:* No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fir, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

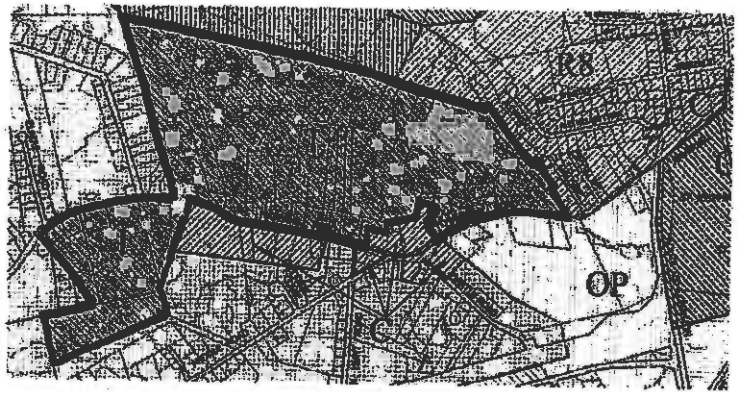
**12.01** *Severability*: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

MEDICAL MARIJUANA DISTRICTS - ZONING MAP AMENDMENTS

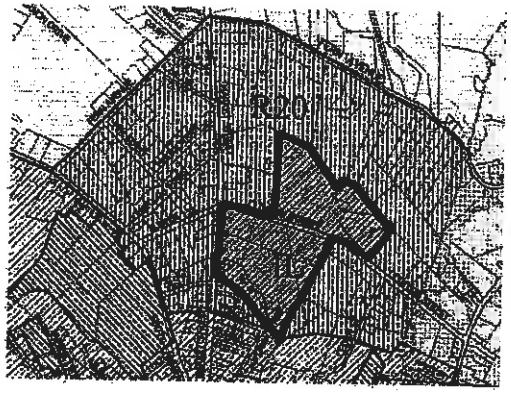


MEDICAL MARIJUANA DISTRICTS - ZONING MAP AMENDMENTS

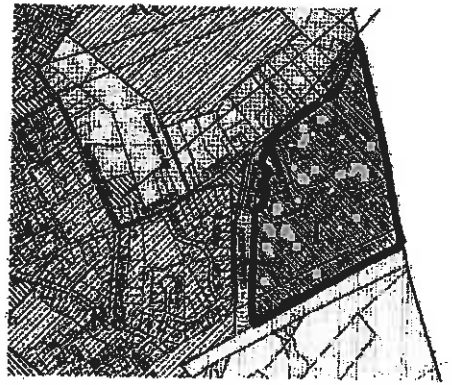
***Medical Marijuana Overlay District***
***Amesbury, MA***




**INDUSTRIAL ZONING DISTRICT –**
**(Along Rt. 110)**




**LIGHT INDUSTRIAL ZONING DISTRICT –**
**(Along Market Street, Clinton Street)**



**INDUSTRIAL ZONING DISTRICT –**
**(Along Monroe Street and Rt. 495)**

**INDUSTRIAL ZONING DISTRICT –**
**(Along Hunt Road and Rt. 495)**

# SECTION XII

## WETLANDS AND FLOODPLAIN PROTECTION DISTRICT

A. Purpose: The purpose of the Wetlands and Floodplain Protection District is to:

1. Protect the health and safety of persons and property against the hazards of flooding.
2. Preserve and maintain wetlands, the quality and level of the water table and flood storage areas for public health and safety, wildlife, fisheries, existing and future water supplies, pollution control, and open space,
3. Protect the City from the cost of unsuitable use or development of areas subject to flooding; eliminate costs associated with the response and cleanup of flooding conditions.
4. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding.
5. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of the flooding.
6. Eliminate new hazards to emergency response officials.

B. The flood plain district is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code with which addresses floodplain and coastal high hazard areas (currently 780 CMR);
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5). *(11/15/05)*

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

C. District Boundary: *(7/13/12)*

1. The Floodplain District is herein established as an overlay district. The boundaries of the Wetlands and Floodplain Protection District includes all special flood hazard areas within the City of Amesbury designated as Zone A and AE, on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the City of Amesbury are panel numbers 25009C0014F, 25009C0018F, 25009C0082F, 25009C0101F, 25009C0102F, 25009C0103F, 25009C0104F, 25009C0106F, 25009C0107F, 25009C0108F, and 25009C0109F dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report

dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Planning Board, Conservation Commission, and the Building Inspector.

2. The exact location of floodways and floodplains, determined by the Flood Insurance Rate Map dated July 3, 2012 and the Flood Insurance Study, dated July 3, 2012; and the location of wetland boundaries, determined by the U. S. Fish and Wildlife Service Inland Wetlands Map (1977) and McConnell Land Use Map (1980), as shown as an overlay district on the City of Amesbury Zoning Map (1985), on file at the office of the City Clerk. Where the district boundary is in doubt or dispute, or where such boundary is not, in the opinion of the Planning Board, sufficient to determine the extent of all land subject to flooding, the burden of proof shall be upon the owners of the property in question to show where the boundary should be properly located. The applicant shall retain, or pay the City to retain, an appropriate professional to provide the Planning Board with data defining the base flood level or wetland boundary according to the criteria set forth by the Federal Emergency Management Agency Regulations (44 CFR 60-3), and the Inland Wetlands Regulations (CMR 10.00) respectively.

3. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within Zone AE. In Zone AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. "In Zone AE, along watercourses within the City of Amesbury that have a regulatory floodway designated on the Essex County FIRM encroachments are prohibited in the regulatory flood way which would result in any increase in flood levels within the community during the occurrence of the base flood discharge."

4. The provisions applicable to the Wetlands and Floodplain Protection District shall be considered as superimposed on other zoning districts and any use of land permitted in the districts so overlaid shall be permitted subject to the restrictions and regulations thereof, in addition to those set forth in the Wetlands and Floodplain Protection District.

5. The establishment of the Wetlands and Floodplain Protection District shall not constitute the representation that all land outside the district will be free from flooding, and said district may be amended from time to time to update the Wetland and Floodplain Map in accordance with the boundary definition set forth herein.

D. Permitted Uses: The following uses are permitted without review by the Planning Board:

1. Wildlife management, nature study, boating, fishing, hunting, and other conservation and recreation use where otherwise legally permitted.
2. Flower and vegetable gardens, agriculture, aquaculture, forestry, and garden sheds.
3. Construction and maintenance of sidewalks, duck walks, duck blinds, lawns, bicycle, equestrian, and footpaths or bridges, and unpaved recreational areas provided that such uses do not alter the existing topography.
4. Maintenance and repair, but not substantial reconstruction (more than 50%), of existing structures, bridges, roadways, and utilities.
5. Construction and maintenance of public and private water supplies, pump stations, well fields, boat landings, at-grade unpaved parking areas, dredging required to maintain

existing navigation channels, and accessory structures such as fences, patios, flagpoles, sheds, and free standing signs insofar as said uses are constructed to minimize or eliminate flood damage and do not require the placement of fill within the district.

6. Driveways, utilities, and associated facilities over any portion of the Wetlands and Floodplain Protection District to serve lands not in the district, provided that such uses shall not be permitted if there is other reasonable access to such land not in the district and further provided that such facilities require a minimum of filling.

E. Prohibited Uses: Unless permitted above in Section XII.D, no building permit(s) shall be issued for any development that proposes an alteration of the wetlands or flood way without a Special Permit (S1) under Section XII.F being issued by the Planning Board.

F. Special Permit Required: Within the Wetland and Floodplain Protection District, no building or structure shall be constructed, no building or structure shall be expanded in its present use, and no land shall be filled, excavated, changed in grade or otherwise altered except pursuant to a special permit authorized by the Planning Board as hereinafter provided:

1. Procedure for Review by the Planning Board:
   a. The Board shall, within ten (10) days of receipt at an application, refer the application and plans to the Conservation Commission, Board of Health, Permit Granting Authority, Water and Sewer Department, City Engineer, Building Inspector, and any other appropriate City board for written reports and recommendations. No special permits shall be issued until such reports are returned or thirty-five (35) days have elapsed following such referral.
   b. Applications shall be submitted showing the boundaries and dimensions of the area, including the 100 year floodplain elevation and wetlands boundaries, the elevation of existing and proposed structures, existing and proposed contours at two foot intervals, and other such information, including hydrologic calculations to indicate the complete physical characteristics of the area, proposed alteration of the area, and impacts thereof, as set forth in the special permit rules adopted by the Board.
   c. If a special permit is granted, the Board shall impose conditions and safeguards in accordance with the purposes of this section, criteria for approval and special permit rules.

2. Criteria for Approval:

   The Board may issue a special permit if it finds that the proposed construction and/or proposed change in grade will not derogate from the purposes of this district. In issuing special permits, the Planning Board shall assure that:

   a. The lowest floor, including the basement or cellar of any new or substantially improved residential building, shall be at least one (1) foot above base flood elevation. Non-residential construction or improvement shall be elevated or floodproofed above the base flood elevation
   b. The proposed construction and/or change in grade will not obstruct or divert flood flow, reduce natural flood storage, increase storm water runoff, or raise the base flood elevation of the land.
   c. The proposed system of drainage and sewage disposal will not cause pollution or otherwise endanger the public health and adequate drainage is provided to reduce exposure to flood hazards.

d. The proposed construction will have sufficient structural safety to counteract any buoyancy or water impact.

e. The proposed construction shall have street or other appropriate access above the base flood elevation and all proposed public utilities and facilities are located and constructed to minimize or eliminate flood damage.

f. The proposed construction shall not cause erosion and sedimentation in accordance with sedimentation and erosion control measures.

g. The proposed floodproofing or compensatory flood storage method shall be certified by a registered professional engineer. One hundred percent compensatory flood storage shall be provided at every flood interval, and compensatory wetland shall be planted with vegetation.

h. In a riverine situation, the project proponent shall notify, prior to any alteration or relocation of a watercourse, the following:

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

G. Administration:

1. Special permit applications shall be submitted in accordance with the special permit rules of the Planning Board and conditions shall be imposed in accordance with the criteria for approval stated herein as further specified in the special permit rules.
2. If there is a question as to the applicability or coverage of the Wetlands and Floodplain Protection District and it is proven to the satisfaction of the Board and the Building Inspector, and at the owner's expense, that the land is not within the Wetlands and Floodplains Protection District, in accordance with methods set forth herein for establishing said boundary, the Planning Board may issue a special permit provided that the use of such land will not derogate from the purposes of this section and will comply in all respects with all other provisions of the underlying district and further provided that any and all necessary permits or approvals required by local, state, or federal laws shall have been obtained, including an Order of Conditions under MGL., Chapter 131, Section 40.
3. The Planning Board shall require the execution of bonds, covenants, or other securities to assure that the proposed construction and/or flood control method is properly completed in accordance with as-built plans.
4. The public hearing required for issuance of a special permit under this section may be held jointly with public hearings required for other laws, including but not limited to the Wetlands Protection Act.
5. All appeals of a Planning Board decision shall be made directly to the State Superior Court.

# SECTION XIII

## HEALTH CARE OVERLAY DISTRICT (HCO)

1. Establishment: The Health Care Overlay District (HCO) is hereby established and is bounded as shown on the City Zoning Map and in the written description of the HCO, both of which are on file with the City Clerk, Planning Board, and the Building Inspector. The map and written description are incorporated herein by reference. The HCO District boundaries shall be superimposed on the City of Amesbury Zoning Map, so as to indicate the extent of the HCO District.

2. Boundary Determination: In the event of a conflict between the written boundary description and the City Zoning Map, the provisions of the written descriptions shall control. Where the written description is not clear, the provisions of Section III-D shall govern.

3. Zoning Status: Any use permitted in the underlying district shall continue to be permitted consistent with the regulations of the underlying district. The HCO shall in no manner infringe upon the zoning rights or requirements inherent in the underlying district unless and until the owner or owners of property in the HCO elect to initiate development consistent with the criteria established in the HCO. In the instance where a property owner elects to utilize the additional development rights of the HCO and once a building permit has been granted and development constructed, the property shall be subject to the requirements of the elected use as provided in the HCO. In the event of an abandonment or discontinuance of the uses permitted by the HCO, the property would once again become subject to the requirements of the underlying district.

4. Permitted Uses: The following uses shall be permitted by right in the HCO:
   a. Health Care Facility
   b. Medical and Dental Professional Offices
   c. Assisted Elderly Housing
   d. Nursing Homes
   e. Adult Day Care

5. Uses Allowed By Special Permit: The following uses shall be allowed by special permit consistent with the procedures established by this Bylaw. The Planning Board shall be the Special Permit Granting Authority.
   a. Medical or medical research not directly related to the health care facility or any other facility allowed within the district.
   b. Day Care facilities for up to 30 children.
   c. Congregate elderly housing
   d. Satellite parabolic receivers for health care facilities only.

6. Accessory Uses: The following accessory uses are permitted as of right, but in no instance shall the total square foot area of the permitted accessory uses exceed twenty percent (20%) of total square foot area excluding non-habitable basement areas of any building in the HCO.
   a. Cafeteria, vending machine area.
   b. Gift shop, news stand, bookstore.
   c. Pharmacy for the health care facility patients only.
   d. Similar patient convenience oriented uses as those noted above.

1. Dimensional Requirements: The following dimensional requirements shall apply to the HCO for all permitted and special permit uses. Development utilizing the underlying zoning district shall be subject to the dimensional requirements of said zoning district.

| | | | |
|---|---|---|---|
| a. | Minimum Lot Area | 80,000 sq. ft. | |
| b. | Minimum Lot Frontage | 100 ft | |
| c. | Minimum Setback | 35 ft | Note: No new building or addition shall be permitted within 35 ft. of any lot line that abuts the HCO district boundary |
| d. | Maximum Height | 35 ft. | But not to exceed three (3) stories |
| e. | Maximum Building Area | 40% | |
| f. | Minimum Open Space | 20% | |

8. Off-Street Parking and Loading Requirements: For uses utilizing the underlying zoning district the off-street parking requirements in the Table of Off-Street Parking Regulations shall apply. For all other uses in the HCO following shall apply.

| | | |
|---|---|---|
| a. | Health Care Facility | 2 spaces per bed and 4 spaces per doctor or dentist, and 1 space per 2 employees on the largest shift |
| b. | Medical and Dental Offices | 4 spaces per doctor or dentist |
| c. | Assisted Elderly Housing | 1 space per dwelling unit |
| d. | Nursing Homes | 2 spaces per bed at design capacity |
| e. | Congregate Elderly Housing | .5 spaces per bedroom |
| f. | Loading Requirements | Loading requirements in the HCO shall be consistent with the loading requirements noted in the Table of off-Street Loading requirements of this Bylaw |
| g. | Parking in Required Setback | At grade off-street parking shall be permitted within 25 ft. of the required 35 foot district boundary building setback. However, no parking shall be permitted within 10 feet of any property line that is also part of the district boundary |

9. Signs:

a. General: All signs permitted in Section VII.B of this Bylaw shall be permitted.

b. Wall Signs: One wall sign shall be permitted for every two street frontages, but not less than one. Wall signs shall be attached parallel to the main wall of the building, they shall not project horizontally more than fifteen (15) inches therefrom. The surface area of the sign shall not be more than eight percent (8%) of the wall area from which it is displayed or ninety-six square feet, whichever is the lesser. Additional wall signs for medical information or emergency access purposes shall be permitted such as: "ambulance", "emergency", and similar signs intended to inform and direct the public. Said signs shall not exceed twenty square feet in total area. Illumination of all wall signs shall be by indirect methods only and all lighting shall be shielded and directed towards the wall sign.

c. Ground Signs: One ground sign shall be permitted for each street frontage, but not more than one ground sign on any one street frontage shall be erected. Ground signs shall not

exceed thirty two square feet and shall be set back at least five (5) feet from the street lot line. No portion of any ground sign shall be over twelve (12) feet above grade.

d. Traffic Direction Signs: Signs to direct traffic flow and/or signs provided for pedestrian safety shall be permitted in addition to the allowable wall or ground signs. The total area of any such sign shall be exclusively for traffic direction or pedestrian safety; and the maximum area shall not exceed ten (10) square feet.

e. Permits: Procedures for sign permits and appeals of decisions of the Building Inspector shall be in accordance with the Zoning Bylaw.

10. Site Plan Review: Site Plan Review in accordance, with Section C of this Bylaw shall be applicable in the HCO District.

a. Additional Site Requirements: For any new development or extension in excess of one thousand (1000) sq. ft. the following shall also apply:

1. A landscape plan prepared by a registered landscape architect shall be submitted to the Planning Board for review. The Planning Board shall determine if the submitted plan, in a reasonable and practical manner, meets the following two landscape planning objectives. One, to visually minimize the scale and mass of the buildings within the HCO from the surrounding area by the planting of trees and/or other natural materials. Two, to screen the surface parking areas from the at grade view of surrounding properties by planting natural materials within the ten foot portion of the building setback line where parking is not permitted. For reasons approved by the Planning Board screening may be provided in an alternate manner; such as a traditional privacy fencing of at least six feet in height, or earthen berms planted with ground cover. Further, the Planning Board may permit the implementation of any landscape improvements to be scheduled over a period of up to three years.

All trees planted as part of the Site Plan Review process shall be at least three (3) inches in diameter at a point six (6) inches above grade and shall be at least ten (10) feet in height at the time of planting. Plant materials used to screen parking lots shall be at least four (4) feet in height at the time of planting and shall have the capacity to attain a height of at least six (6) feet. All trees and screens shall be maintained and replaced if necessary as part of the conditions of any building permit granted within the HCO.

2. Architectural renderings of proposed new additions and/or new structures shall be submitted to the Planning Board. The Planning Board shall review the renderings to insure that the proposed project has been designed to minimize its visual impact on the surrounding residential areas.

b. Exceptions: Alternate screening treatments may be submitted for those parking lots existing at the time of the adoption of the HCO that are within the required ten foot no parking area of the building setback requirement. Further for preexisting parking areas that share a lot line with a residential use the Planning Board shall require the installation and maintenance of a six foot wooden fence, as a parking screen, if none is presently in place.

# SECTION XIV (6/12/12)

## WATER RESOURCES PROTECTION DISTRICT

A. Purpose: The Purpose of the Water Resources Protection District (WRPD) is:

1. To promote the health, safety, and general welfare of the community by ensuring an adequate quantity and highest quality of water possible for residents, institutions and businesses of the City.

2. To preserve and protect watersheds, surface water and aquifers for drinking water supplies and the environment.

3. To inhibit temporary and permanent contamination of watersheds, surface water and aquifers in the WRPD.

4. To protect the community from the detrimental use and development of land related to the degradation of water quality and quantity within the WRPD.

B. Scope of Authority: The WRPD is an Overlay District superimposed on the Zoning Map. This Overlay District shall apply to all new construction, reconstruction, expansion of existing buildings, subdivision of land, and new or expanded land uses. Applicable activities or uses which fall within the WRPD shall comply with the requirements of this district as well as with the underlying zoning. Uses that are prohibited in the underlying zoning districts shall not be allowed in the WRPD.

C. Definitions: For the purpose of this bylaw [section], the following words and phrases shall have the following meaning:

*Aquifer*: Geologic formation composed of rock, sand, silt, gravel or combination thereof that contains significant quantities of potentially recoverable water.

*Disposal*: The deposit, injection, dumping, release, spilling, leaking, incineration, discharge, or placing of any material into or on any land or surface water or ground water so that such materials or any constituents thereof may enter the environment or be emitted into the air or received by any water subject to this bylaw.

*Disturbance*: Activities affecting non-impervious area including, but not limited to, land clearing and associated grading, tree and shrub removal, mowing, burning, spraying, grazing, earth removal, filling of land, all construction and any other unlawful or disruptive activities. Disturbance does not include activities associated with routine maintenance of existing uses including, but not limited to, gardening, lawn, tree, shrub, walkways, dock, retaining wall, utility, building, driveway, drainage systems or maintenance of public ways.

*Ground Water*: All water beneath the surface of the ground in a saturated zone.

*Impervious Surface*: Material or structure on, above, or below the ground that inhibits precipitation or surface water from reaching underlying soil or ground water.

*Mining*: The removal, disturbance or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

*River:* A natural flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year.

*Surface Water*: All water open to the atmosphere including but not limited to rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and vernal pools.

*Water Resources Protection District*: The zoning district defined to overlay other zoning districts in the City. The Water Resources Protection District (WRPD) includes three distinct watershed zones for surface water supply sources: Zone A, Zone B and Zone C. The WRPD also includes a zone for the City's municipal ground water supply referred to as the Zone II Well Head Protection Area. A WRPD map is provided, by reference, in Section XIV-D of this bylaw.

*Toxic or Hazardous Materials*: Any substance or mixture of substances which, because of its physical, chemical or infectious characteristics, poses an actual or potential hazard to human health, public welfare, safety or the environment if such substance or mixture were discharged to land, water or air within the City. Toxic or hazardous materials include, without limitation, synthetic- and organic-based chemicals, petroleum products, heavy metals, radioactive or infectious waste, acids and alkalis, and all substances defined as Toxic or Hazardous under M.G.L. c. 21C and c. 21E, and 310 CMR 30.00, and also includes such products as solvents and thinners in quantities greater than normal household use.

*Tributary*: Any body of running, or intermittently running water which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient, and which ultimately flows into a Class A surface water source, as defined in 314 CMR 4.05(3)(a).

*Watershed*: The area contained within geomorphic or topographic boundaries of higher elevations or which cause surface water runoff and/or groundwater to drain or flow to lower elevations into water used as a public water system source.

*Watershed Zones*: The watershed zones are geographically defined by their proximity to surface water of the Powow River, its tributaries and associated wetland resource areas, and proximate to municipal ground water supply well shafts. For the purpose of this WRPD, the portion of the Powow River covered by this bylaw begins at, and extends upstream from, the Massachusetts and New Hampshire political boundary proximate to Whitehall Road. These zones are specifically shown on the delineation map identified in Section XIV-D of this bylaw entitled "Water Resources Protection District, City of Amesbury". In the event that the City determines, on the basis of credible evidence before it, that there exists a significant doubt or dispute concerning the proper location of boundaries of the watershed protection district on any individual lot or lots, the City shall, at the request of the owner of such lot or lots, engage the services of a professional hydro-geologist or wetland scientist (for wetland resource area boundary determinations) to advise it in determining such boundaries. The owner making such request shall reimburse the City for the cost of such services. Upon completion of the services of the hydro-geologist or wetland scientist, the City shall hold a hearing to make a final determination of such boundaries. At such hearing, such report shall be deemed evidence sufficient to establish the location of the boundary unless rebutted by credible evidence to the contrary. The watershed zones are further described as follows:

*Zone A:* The land area

(a.) Between the Powow River, including Meadowbrook Pond and Tuxbury Pond to the New Hampshire State line, and the upper boundary of the bank;
(b.) Within a lateral distance of four hundred (400) feet from the upper boundary of the bank of the Powow River, including Meadowbrook Pond and Tuxbury Pond to the New Hampshire State line; and
(c.) A lateral distance of two hundred (200) feet from the upper boundary of the bank of tributaries and associated wetland resource areas (as defined in M.G.L. c. 131, § 40 and the City Wetland Bylaw) of the Powow River including Lake Attitash.

*Zone B:* The land area within one-half mile (0.5mi.) of the upper boundary of the bank of the Powow River or edge of the watershed, whichever is less. However, Zone B shall always include the land area within a four- hundred-foot (400 ft.) lateral distance from the upper boundary of the bank of the Powow River.

*Zone C:* The land area not designated as Zone A or Zone B within the watershed of the Powow River.

*Zone II:* The land area overlying the aquifer that contributed (recharges) water to each of the City's municipal water supply well shafts as approved by the Massachusetts Department of Environmental Protection, and a delineated on the attached WRPD Map.

*Wetland Resource Area:* Those areas subject to protection under the Massachusetts Wetlands Protection Act (MGL c. 131 s.40) and Section XII of Amesbury's Zoning Bylaws (Wetlands and Flood plain Protection District).

D. Establishment and Delineation of a Water Resources Protection District:

This bylaw establishes within the City certain water resource protection zones, consisting of watershed areas of the Powow River and tributaries and recharge areas of the City's existing municipal water supply wells, which are delineated on the attached Water Resources Protection District Map. This map is hereby made a part of the City's zoning bylaws and is available at the City Clerk's office and the Office of Community and Economic Development.

E. Allowed Uses within the Water Resource Protection District:

Municipal water supply related activities shall not be subject to regulations within this bylaw and section. The following uses are allowed within the Water Resource Protection District, provided that all necessary permits, orders, or approvals required by local, state or federal law are first obtained:

1. Conservation of soil, water, plants, and wildlife.

2. Uses approved pursuant to Section I.

3. Reclamation and restoration activities pursuant to Section I.

4. Outdoor recreation, nature study, boating, fishing, and hunting where legally permitted, subject to Sections F, G and H (prohibited uses) and Section I (special permitted uses).

5. Foot and/or bicycle paths and associated bridges.

6. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply, and conservation devices.

7. Maintenance, repairs, and enlargement of any existing structure, subject to Sections F, G, and H (prohibited uses) and Section I (special permitted uses).

8. Residential, commercial and industrial development outside of the Zone A and Zone II area and subject to Sections F, G, and H (prohibited uses) and Section I (special permitted uses).

9. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

10. Routine maintenance or repair of roadway, utility, and drainage systems.

F. Prohibited Uses within the Water Resource Protection District:

The following uses are prohibited within the entire Water Resources Protection District:

1. Landfills and open dumps as defined in 310 CMR 19.006.

2. Landfills receiving only wastewater residuals and/or septage (wastewater residuals "monofills") approved by the DEP pursuant to MGL c. 21, § 26 through ing of sludge or septage as defined in 310 CMR 32.05.

3. Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 32.31.

4. Automobile graveyards, junk, and salvage operations.

5. Stockpiling or disposal of snow and ice removed from highways and streets located outside of the WRPD that contains sodium chloride, chemically treated abrasives, other chemicals, or sand materials used for snow and ice removal.

6. Placement of fill, unless the fill is free of solid wastes and does not contain concentrations of oil, toxic or hazardous materials above existing concentrations in the proposed fill area.

7. Storage of sodium chloride, chemically treated abrasives, other chemicals, or sand materials used for the removal o ice and snow on roads, unless such storage (including loading areas) is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

8. Any other activity deemed likely by the Director of Public Works, Board of Health, or its agent to cause or contribute to the contamination of the public water supply, or other surface water.

9. No water shall be diverted out of the WRPD other than that required by the City for public safety, consumption of water, or to the City's Wastewater Treatment Plant.

10. Disposal of snow and ice containing sodium chloride, chemically treated abrasives, other chemicals, or sand materials directly into a surface water body or wetland resource.

11. All underground storage tanks.

12. Sand and gravel excavation operations.

13. Petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification Codes 5171 and 5983, except for liquefied petroleum (liquid propane).

G. Prohibited Uses within the Zone A, Zone B, and Zone II:

In addition to prohibitions in Section F and H, the following uses are prohibited within the Zone A, Zone B, Zone II of the Water Resources Protection District:

1. Storage of animal manures, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

2. The removal of soil, loam, sand, gravel or any other mineral substances to within four (4) feet of historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United Stated Geological Survey), unless the substances removed are re-deposited within 45 days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark, and except for excavations for the construction of building foundations or the installation of utility works, or wetland restoration work conducted in accordance with a valid Order of Conditions issued pursuant to MGL c. 131, § 40.

3. Facilities that generate, treat, store, or dispose of hazardous waste subject to M.G.L. c. 21c and 310 CMR 30.00, except the following:

   (a.) Very small quantity generators, as defined by 310 CMR 30.00;
   (b.) Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
   (c.) Waste oil retention facilities required by M.G.L. c. 21c, § 52A; and
   (d.) Treatment works approved by the DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

4. Treatment or disposal works that are subject to 314 CMR 5.00 except the following:

   (a.) The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works.
   (b.) Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with 310 CMR 15.000: *The State Environmental Code, Title 5: Standards Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of on-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage,* provided the facility owner demonstrated to the DEP's satisfaction that there are no feasible siting locations outside the WRPD. Any such facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent.

The DEP may also require the facility to provide a higher level of treatment prior to discharge.

(c.) Treatment works approved by the DEP designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and

(d.) Discharge by public water system of waters incidental to water treatment processes.

5. The on-site discharge of process wastewater by industrial and commercial uses.

6. Any activity that causes disturbance except for uses permitted under Section E or I.

7. Solid waste combustion facilities (Incinerators) or handling facilities as defined in 310 CMR 16.00.

8. Storage of liquid hazardous materials, as defined in MGL c. 21E, and/or liquid petroleum products, unless such storage is:

(a.) Above ground level; and
(b.) On an impervious surface; and
(c.) Either:
(i) In container(s) or above-ground tank(s) within a building; or
(ii) Outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, which ever is greater.
However, these requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing, or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.

9. Commercial repair, servicing, indoor/outdoor washing, or rebuilding of motor vehicles, boats, airplanes, and other large motorized equipment other than for normal non-commercial household or farming activities.

10. Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

H. Prohibited Uses within the Zone A and Zone II:

In addition to the prohibitions and restrictions in Sections F and G of Section XIV of the Bylaw (Water Resources Protection District), the following activities are prohibited within the Zone A and Zone II:

1. Unless listed below, any activity, other than for flood control or municipal water supply, which causes disturbance as defined in Section C.

2. Above-ground storage of liquid hazardous materials, as defined in M.G.L.c.21E, or liquid propane or liquid petroleum products, except as follows:

(a.) The storage is incidental to:
  (i) Normal household use, outdoor maintenance, or the heating of a structure;
  (ii) Use of emergency generators;
  (iii) A response action conducted or performed in accordance with MGL c. 21E and 310 CMR 40.00 and which is exempt from a ground water discharge permit pursuant to 314 CMR 5.05(14); and

(b.) The storage is either in container(s) or above-ground tank(s) within a building; or outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, which ever is greater. However, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing, or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.

3. Construction or placement of any permanent structures, other than those associated with: a special permit as defined under Section I.A; flood control or water supply, utility, or drainage system; open decks and utility sheds under 120 SF in area with minimum footings as determined by the Building Inspector; additions or alterations which do not increase the impervious area of the structure(s); and repair or restoration of an existing structure as allowed in Section XIV.E.7 and Section IX.F.

4. Any surface or subsurface discharge, including, but not limited to, stormwater or hazardous materials, except as allowed by special permit listed under Section XIV.I.9.

5. Horse paths.

6. Construction of new roads and rail roads.

7. Human or animal burial places, cemeteries, or mausoleums.

8. Land uses that result in impervious cover of more than 15% or 2,500 square feet of any lot or parcel, whichever is greater are prohibited; unless a system for artificial recharge of precipitation is provided that will not result in the degradation of ground water quality. However, no more than 20% of any lot or parcel shall be rendered impervious with artificial recharge.

9. Facilities that, through their acts or processes, generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.000, except for the following:

(a.) Very small quantity generators, as defined by 310 CMR 30.000; and
(b.) Treatment woks approved by the DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

10. Activities, that in the opinion of the Director of Public Works, Board of Health, or its agent present a threat to a public drinking water supply, including, but not limited to, snowmobiling, dirt biking, all terrain vehicles (ATVs), or sea planes. In the event it is determined by the Director of Public Works, Board of Health, or its agent that other

activities present a threat to a public drinking water supply, then a public hearing shall be held not less than 30 days before prohibiting such other activities.

11. Treatment pr dos[psa; wprks that are subject to 314 CMR 5.00 for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:

(a.) The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and

(b.) Treatment works approved by the DEP designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and

(c.) Publicly owned treatment works, or POTWs.

12. Any floor drainage systems in existing facilities, in industrial or commercial hazardous material and/or hazardous waste process areas or storage areas, which discharge to the ground with a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 10.00), connect the drain to a municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies.

I. Uses Requiring a Special Permit within the Water Resources Protection District:

A. The following uses and activities are allowed within Zone A and Zone II of the WRPD only upon the issuance of a special permit by the Planning Board under such conditions as the Board may require.

1. Restoration or replication of wetland resource areas, including conversion of impervious surfaces to vegetated surfaces.

2. Any addition, alteration or extension to a pre-existing single or two-family structure that will increase the impervious area of a lot provided: a compensatory stormwater management area of at least 150% of the proposed new impervious area is converted and restored to a natural vegetated surface; a system of storm water management and artificial recharge of precipitation is developed which is designed to prevent untreated discharges to wetland resource areas and surface water; improve hydrologic conditions from pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; result in a improvement to ground water quality; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:

(1) Recharge shall be attained through site design using Low Impact Development techniques that incorporate natural drainage patterns and vegetation in order to maintain and improve upon pre-development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways and other impervious

surfaces shall be routed through grassed water quality swales, as sheet flow over lawn areas or to constructed stormwater wetlands, sand filters, organic filters and/or similar systems capable of removing nitrogen and phosphorus from stormwater.

(2) Prior to start of any construction, a recordable covenant in form acceptable to the Planning Board, and including at a minimum, stormwater management requirements, special permit conditions, ongoing enforcement, responsible parties and any other matters that the Board deems appropriate, shall be submitted for approval for all areas designated as compensatory stormwater management areas. No building permit shall be issued until a recorded copy of the approved covenant is submitted to the Board.

B. The following uses and activities are allowed within district Zones B and Zone C of the WRPD only upon the issuance of a special permit by the Planning Board under such conditions as the board may require.

1. Enlargement or alterations of existing, non conforming uses within the Water Resources Protection District provided a system of stormwater management and artificial recharge of precipitation is prepared and completed in accordance with Section I.B.7.

2. Application of pesticides, herbicides, insecticides, fungicides, and rodenticides for non-domestic or nonagricultural uses in accordance with Federal and State standards. The special permit shall be granted only if such standards are met. If applicable, the application shall provide documentation of compliance with a yearly operating plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00.

3. Restoration or replication of wetland resource areas, including conversion of impervious surfaces to vegetated surfaces.

4. Application of fertilizers for non-domestic or non-agriculture uses. Such application shall be made in a manner so as to minimize adverse impacts to surface water and ground water quality due to nutrient transport, deposition, and sedimentation.

5. Activities, outside of Zone A and Zone II of the WRPD, which involve the generation or handling of toxic or hazardous materials in quantities greater than those associated with normal household use, if allowed in the underlying zoning (except as prohibited under Sections F, G, and H). Such activities shall require a special permit to inhibit contamination of surface water and groundwater.

6. Construction of dams or other control devices, ponds or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity.

7. (a) Any new construction; and (b) any use that will render impervious more than fifteen percent (15 %) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, shall require a system of stormwater management and artificial recharge of precipitation is developed which is designed to prevent untreated discharges to wetland resource areas and surface water; preserve hydrologic conditions that closely resemble pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; not result in significant degradation of ground water; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:

(1) For lots occupied, or proposed to be occupied, by single or two family residences recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to maintain pre-development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways and other impervious surfaces shall be routed through grassed water quality swales, as sheet flow over lawn areas or to constructed stormwater wetlands, sand filters, organic filters and/or similar systems capable of removing nitrogen and phosphorus from stormwater.

(2) For lots occupied, or proposed to be occupied by other uses a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to ground water through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (detention) ponds, water quality swales, sand filters, organic filters or similar site appropriate best management practices capable of removing nitrogen, phosphorus and other contaminants from stormwater and meeting the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, Volumes 1 and 2, dated March 1997 (as amended), for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to the Powow River, its tributaries, other surface water bodies, wetlands, or vernal pools. Dry wells shall be prohibited.

Except when used for roof runoff from non galvanized roofs, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or other best management practices to facilitate control of oil, toxic and/or hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities. All such artificial recharge shall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the special permit granting authority (SPGA) to ensure that systems function as designed. Infiltration systems greater than three (3) feet deep shall be located at least one hundred (100) feet from drinking water wells. Any infiltration basins or trenches shall be constructed with a three (3) foot minimum separation between the bottom of the structure and maximum ground water elevation.

8. Residential construction upon a lot with an average slope exceeding fifteen (15) percent. An acceptable plan for site stabilization and control of erosion and sedimentation shall be provided.

9. Any new storm water runoff shall be set back from the Powow River, its tributaries, and wetland resource areas a minimum of one hundred (100) feet, and shall include best management practices appropriate to the site. Existing and replacement discharges shall be set back from the Powow River, its tributaries, and wetland resource areas when either the site stormwater drainage system is changed or the discharge is increased. Design and modification of stormwater treatment systems shall be completed in accordance with Section I.B.7.

10. Removal of surface water or ground water, other than for municipal water supply or public safety purposes, including, but not limited to, irrigation, watering of fields, or for either commercial or industrial uses.

11. New road construction shall conform to all specifications listed in the Amesbury Subdivision Rules and Regulations as well as any conditions of approval required by the Planning Board relative to the purposes and requirements of this bylaw and the protection of the public drinking water supplies.

12. This provision only applies to an existing use on a lot in lawful existence within the boundaries of Zones B, C and Interim Well-head Protection Areas (IWPA) prior to March 12, 2012 and now within the boundaries of Zone II but not Zone A and as amended by Bill Number 2012-021.
Any alteration or extension of such use that may have become non-conforming due to the changes in the boundaries of the watershed protection district zones outlined above shall be allowed upon issuance of a Special Permit in accordance with XIV.J and subject to the performance standards outlined in subsection I.B.7.

J. Procedures for Issuance of Special Permit:

1. The SPGA under this bylaw shall be the Planning Board. Such special permit may be granted if the SPGA determines, in conjunction with the City Planner, City Engineer, DPW Director, Health Agent, and other City Departments listed below that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's special permit application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other municipal boards or agencies in its decision.

2. Information for review by the SPGA, pursuant to the issuance of a special permit, shall be supplied to the SPGA in final form by either the applicant or a consultant to the City. Such information shall include documents and information listed in Section XI.C.5 and narrative of conditions subject to the special permit request that, in the SPGA's sole discretion, provides sufficient detail and supporting information for the SPGA to issue a determination. Building elevations and plans shall be submitted when the existing structure is proposed for expansion or additions and alterations to it are proposed. Fifteen (15) final copies of the special permit application package shall be provided to the SPGA upon the applicant's request for a special permit.

3. Upon receipt of the special permit application and required special permit filing fee, the SPGA shall transmit one copy to each of the departments listed in Section XI-C.4.c.3 of Amesbury's Zoning Bylaws. Failure to respond in writing within sixty (60) days of receipt by any of these departments shall indicate approval or no desire to comment by said department.

4. The SPGA may grant the required special permit only upon finding that the proposed use meets, at a minimum, the requirements specified in Sections E, F, G, H, and I of this bylaw, any regulation or guidelines adopted by the SPGA, and the following standards. The proposed use shall:

   A. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection District.

   B. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed, in adherence to the practices outlined in "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts" (USDA Soil Conservation Services, October 1977) (as amended).

5. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the City.

6. The applicant for a special permit shall file fifteen (15) copies of a site plan and attachments. The site plan shall be drawn at a proper scale and be stamped by a professional civil, environmental or sanitary engineer. The site plan shall show pertinent site features and be of sufficient scale to depict proposed as-built dimensions and location of site structures, watershed protection district zones pertaining to this bylaw, and surface water and wetland resource areas. All submittals pertaining to disputed boundaries of, or activities within, the water resources protection district for a lot or lots shall be prepared at the discretion of the Planning Board, using the services of a Licensed Land Surveyor, a Massachusetts Licensed Site Professional (for oil, toxic and hazardous material use evaluations and management plans), a professional hydro-geologist (for evaluations pertaining to potential surface water or ground water quality or quantity impacts), and a wetland scientist (for wetland resource area boundary determinations or wetland resource area impact assessments). The site plan and its attachments shall include at a minimum the following information where pertinent:

   A. A complete list of chemicals, pesticides, fertilizers, oils, and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

   B. For those activities using or storing oils, toxic or hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:

      i. Provisions to protect against the discharge of oil and hazardous materials or waste to the environment due to spillage, accidental damage,

corrosion, leakage, or vandalism, including spill containment and cleanup procedures.

ii. Provisions for indoor secured storage of hazardous materials and waste on impervious floor surfaces.

iii. Evidence of compliance with Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

C. Proposed down gradient locations for surface water or ground water monitoring, including sampling parameters and sampling frequency, should the SPGA deem the activity a potential surface water or ground water threat.

7. The SPGA shall hold a public hearing, in conformity with the provision of M.G.L. c. 40A, § 9, and after the review by the appropriate City Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailing to "parties of interest" as defined by M.G.L. c. 40A, § 11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the City clerk within ninety (90) days following the closing of the public hearing. No work shall commence until a certification is recorded as required by said M.G.L. c. 40A, § 11.

K. Enforcement: Written notice of any violation of this bylaw [Section XIV] shall be given by the Building Inspector/Zoning Compliance Officer to the responsible person as soon as possible upon observation, detection, knowledge or proof that a violation has occurred. 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 to remove or remedy the violations, preventative measures required for avoiding future violations, and a schedule of compliance. A copy of such notice shall be submitted to the Engineering Office, Planning Board, City Clerk, DPW Director, and Zoning Compliance Officer.

For situations that require remedial action to prevent, minimize or abate impact to the water resources within the Water Resources Protection District, the Building Inspector, the Board of Health, or any other agent of the City may order the owner and/or operator of the premises to remedy the violations. If said owner and/or operator does not comply with said order, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The cost of assessment and/or remediation taken by or on behalf of the City shall be the sole responsibility of the owner and/or operator of the premises.

L. Fines: Failure to comply with this Bylaw, any conditions required by a Special Permit pursuant to XIV-J, or any actions or remedies specified in a written notice of violation will be subject, at a minimum, to a monetary penalty. The amount of the monetary penalty shall be determined by the Planning Board. No prior oral or written notice of violation by the City is required prior to the assessment of a monetary penalty. All monetary penalties shall be paid in full to the City of Amesbury within thirty (30) days of receipt.

M. Severability: A determination that any portion or provision of this WRPD Bylaw is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit issued previously thereunder.

WATER RESOURCES PROTECTION DISTRICT

TOWN OF AMESBURY, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT, ENGINEERING

# WATER RESOURCE PROTECTION DISTRICT
## BOUNDARY PLAN

SCALE:
1"=1500'

N

SHEET 1 OF 1

# SECTION XV

## AMENDMENT, VALIDITY, AND EFFECTIVE DATE

A. Amendment: This Zoning Bylaw may be changed from time to time by amendment, addition, or repeal in the manner hereinafter provided.

The amendment of this Bylaw may be initiated by the submission of the proposed change to the Municipal Council by the Municipal Council, by the Mayor, by an individual owning land to be affected by said amendment, by ten registered voters in the City, by the Planning Board, Zoning Board Appeals, by the Merrimack Valley Planning Commission, or by the Inspector of Buildings. The Municipal Council shall, within fourteen (14) days of receipt of such change, submit it to the Planning Board for review.

No Zoning Bylaw or amendment shall be adopted until after the Planning Board has held a public hearing thereon at which all interested parties shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five (65) days after the proposed Zoning Bylaw or change is submitted to the Planning Board by the Municipal Council. Notice of time and place of such public hearing, of the subject matter sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the City once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing (not counting the date of the hearing), and by posting such notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of said hearing (not counting the day of the hearing).

Notice of said hearing shall also be sent by mail, postage prepaid, to the Department of Community Affairs, the Merrimack Valley Planning Commission and to all Planning Boards of all abutting cities and towns.

No vote to adopt any such proposed Bylaw or amendment shall be taken until a report with recommendations of the Planning Board has been submitted to the Municipal Council or twenty-one (21) days after said hearing have elapsed without submission of such report or recommendations. After such notice, hearing, and report, or after twenty-one (21) days shall have elapsed after such hearing without submission of such report, the Municipal Council may adopt, reject, or amend any such proposed Bylaw or amendment. If the Municipal Council fails to vote to adopt any proposed Bylaw or amendment within six (6) months after such hearing, no action shall be taken thereon until a subsequent public hearing is held with notice and report as above provided.

No Zoning Bylaw shall be adopted or changed except by a two-thirds vote of the Municipal Council.

No proposed Zoning Bylaw or amendment which has been unfavorably acted upon by the Municipal Council shall be considered by the Municipal Council within two (2) years after the date of such unfavorable action unless the adoption of such proposed Bylaw or amendment is recommended in the final report of the Planning Board.

B. Validity: No claim of invalidity of a Zoning Bylaw or amendment arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county, or municipal office shall refuse, deny, or revoke any permit, approval, or certificate because of any such claim of invalidity unless within one hundred and twenty (120) days after adoption of the Bylaw or amendment legal action is commenced and notice specifying the court, parties, invalidity claimed, and the date of filing is filed together with a copy of the petition with the City Clerk within seven (7) days after commencement of the actions.

In case any section or provisions of this Bylaw shall he held invalid in any court, the same shall not affect any other section or provision of this Bylaw, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

The invalidity, unconstitutionality, or illegality of any provision of this Bylaw or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality, or legality of any other provision or boundary.

C. Effective Date: The effective date of the adoption or amendment of the Zoning Bylaw shall be the date on which said adoption or amendment was voted upon by the Municipal Council, if publication and posting has been made or publication in a newspaper pursuant to Section 32 of Chapter 40 of the Massachusetts General Law.