Town of Kingston MA Zoning Bylaw
November 2019
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Chapter 121 of the Acts of 2002 - An Act Relative to Zoning in the Town of Kingston. (Setbacks for grandfathered vacant lots)
SECTION 1 PURPOSE, AUTHORITY, & APPLICATION

1.1 PURPOSES

1.1.A. Public Health, Safety, and Welfare

The purposes of this Bylaw are to promote and protect the public health, safety, and welfare of the Town of Kingston and to achieve the objectives of G.L. c. 40A, the Zoning Act, and Section 2A of Chapter 808 of the Acts of 1975, which include, but are not limited to the following:

1. To lessen congestion in the streets.
2. To conserve health.
3. To secure safety from fire, flood, panic, and other dangers.
4. To provide adequate light and air.
5. To prevent overcrowding of land; to avoid undue concentration of population.
6. To encourage housing for persons of all income levels.
7. To facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space, including the conservation of natural resources, the prevention of blight, and pollution of the environment.
8. To encourage the most appropriate use of land throughout the Town, including consideration of recommendations of plans adopted by the Planning Board and the comprehensive plan of the regional planning agency.
9. To preserve and increase amenities.
10. To protect aquifers and wetlands.

1.2 AUTHORITY

This Bylaw is adopted under the authority of Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and in accordance with the provisions of G.L. c. 40A.

1.3 RESTRICTIONS

When this Bylaw imposes greater restriction on the use of buildings, structures, or premises, or on the height of buildings, or requires larger yards or open spaces than are imposed or required by any regulations or permits, or by any restrictions, easements, covenants, or agreements, then the provisions of this Bylaw shall control except in the case of a variance granted by the Board of Appeals.

1.4 VALIDITY

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision hereof.
1.5 AMENDMENT

1.5.A. Amendment Process

This Bylaw may from time to time be changed by amendment, addition, or repeal by Town Meeting in the manner provided for in G.L. c. 40A, § 5.

1.5.B. Repetitive Action

No proposed zoning amendment which has been unfavorably acted upon by Town Meeting shall be considered by Town Meeting within 2 years after the date of the unfavorable action unless the adoption of the zoning amendment is recommended in the final report of the Planning Board.
SECTION 2 DEFINITIONS

2.1 Terms and Topics

2.1.A. MEANING OF TERMS

For the purpose of this Bylaw, and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated below.

1. Words used in the present tense include the future.
2. The singular includes the plural and the plural includes the singular.
3. The word "shall" is mandatory and not discretionary.
4. The word "land" shall include the words "marsh" and "water".
5. The word "includes" or "including" shall not limit a term to specified examples but are intended to extend the meaning to all other instances, circumstances, or items of like character or kind.
6. The words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied.
7. The words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof".
8. The "Town" is the Town of Kingston.
9. The terms listed in this Section 2 shall have the meanings as defined in the definition unless a contrary meaning is required by the context or is otherwise specifically provided.

2.1.B. TERMS NOT DEFINED

In the interpretation and enforcement of this Bylaw, words and terms not defined in Section 2 shall be interpreted by consulting one or more of the following resources, as most appropriate:

1. The Massachusetts State Building Code, as amended.
2. The Massachusetts General Laws, as amended.
3. The most recent edition of Webster's Unabridged Dictionary.

2.1.C. DEFINITIONS LISTED BY TOPIC

1. Section 3 - Definitions – This Section is a list of certain terms used in the Zoning Bylaw. Definitions are not listed alphabetically by each definition term from A to Z. Instead they are grouped by topic category and are alphabetized within that topic. Thus, all terms related to a particular topic category, regardless of the first letter of the term itself, are listed within that category. For example, in the Agriculture topic category there are terms beginning with the letter “A” (Agriculture), “F” (Farmer, Farm Parcel, and Farm Related Business), and “N” (Nursery). Also note that some terms, such as Arts and Crafts Studios, and Family, are listed singularly.

2. Related Topics – The following are the topic headings for related terms defined in Section 2. The topic headings are listed in alphabetical order:
ACCESSORY RELATED TERMS

ACCESSORY BUILDING: A building such as a garage or shed, located on the same lot with, and accommodating a use accessory to, the principal permitted use of the premises.

ACCESSORY HOUSING UNIT: A dwelling unit added to or created within a single-family dwelling with provision for independent cooking, living, bathroom facilities, and sleeping. The gross floor area of the newly created unit shall not occupy more than thirty percent of the habitable gross floor area of the principal residential structure, excluding garage, unfinished attic crawl space, and other normally uninhabitable gross floor areas of the structure, after conversion.

ACCESSORY USE: A use of land or building on the same lot with, and customarily incidental but secondary to, a permitted use except that if more than 30% of the gross floor area or 50% of the lot area is occupied by the accessory use, it shall no longer be considered “accessory.”

ADULT USE RELATED TERMS

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

ADULT CABARET: A restaurant, or other establishment, licensed under G.L. c. 138, § 12, which regularly features exotic dancers, strippers, male or female impersonators or similar entertainers.

ADULT DANCE CLUB: An entertainment establishment which permits a person or persons to perform in a state of nudity as defined by G.L. c. 272, § 31, or an establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

ADULT MOTION-PICTURE THEATER: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

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ADULT PARAPHERNALIA STORE: An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined by G.L. c. 272, § 31.

ADULT USES: An adult use shall include only an adult bookstore, an adult motion picture theater, an adult paraphernalia store and an adult video store, as defined by G.L. c. 40A, § 9A, or an adult cabaret and an adult dance club, as defined in this Zoning Bylaw.

ADULT VIDEO STORE: An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

AGRICULTURE RELATED TERMS

Agriculture: “Farming” or "agriculture" shall comprise farming and all of its operations, including:

- the cultivation and tillage of the soil,
- dairying,
- the production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities,
- the growing and harvesting of forest products upon forest land,
- the raising of livestock including horses,
- the keeping of horses as a commercial enterprise,
- the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes,
- bees,
- fur-bearing animals, and
- any forestry or lumbering operations.

Farmer: A farmer is hereby defined as one engaged in agriculture or farming, or on a farm as an incident to or in conjunction with farming operations, including preparations for market, delivery to storage, or to market, or to carriers for transportation to market.

Farm Parcel: A lot of land containing at least 5 acres devoted exclusively to and currently maintaining one or more agricultural uses as defined under G.L. c. 128, § 1A, or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture use on the parcel annually generates at least $1,000 per acre based on gross sales dollars in areas not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For these purposes, land divided by a public or private way or a waterway shall be construed as one parcel.

Farm Related Business: A lot of land containing at least 5 acres devoted exclusively to and currently maintaining one or more agricultural uses as defined under G.L. c. 128, § 1A, or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture use on the parcel annually generates at least $1,000 per acre based on gross sales dollars in areas not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or...
viticulture. For these purposes, land divided by a public or private way or a waterway shall be
construed as one parcel.

**Nurseries**: Place where trees, shrubs, and plants are grown, whether from seed or otherwise,
including plants maintained for sale on or off the premises and, in conjunction with the sale of plants,
only those quantities of peat moss, humus, mulches, fungicides, insecticides, chemicals, and fertilizers
as intended to nourish and/or preserve those plants.

**AMENITIES**: Features which add to the attractiveness or pleasantness of a building or site.

**ARTS AND CRAFTS STUDIO**: A room or group of rooms used by artists and craftspeople in the creation
of their work, including, but not limited to, painting, photography, sculpture, ceramics and other
related arts and crafts.

**AUTOMOBILE, VEHICULAR, AND TRUCK RELATED TERMS**

**AUTOMOBILE REPAIR AND SERVICE GARAGE**: A facility used for the repair, rental, service, adjusting,
equipping, washing, detailing, and storage of automobiles of other motor vehicles, not including body
repair.

**GARAGE**: Covered space for housing of motor vehicles.

**GARAGE, PRIVATE**: A garage which is part of or separate from a dwelling, trailer or mobile home, but
not for the rental of more than one stall.

**Gas Station/Service Station/Filling Station**: An establishment which provides the sale of gasoline
and diesel for motor vehicles and includes incidental servicing of vehicles.

**Truck Garage and Terminal**: Any premises where the principal use is the outdoor or indoor storage,
service, maintenance or repair of truck, bus, van, automobile or other motor vehicle fleets.

**Bed and Breakfast**: (See “Lodging Related Terms”)

**Boarding House**: (See “Lodging Related Terms”)

**Buffer Zone**: An open or landscaped strip of land established to separate and protect one type of
land use from another. Buffer zones do not include parking or storage areas. See also the definitions
for Landscaped Area and Open Space.

**Building Related Terms**

**Building**: A structure having a roof or cover for the shelter, housing or enclosure of persons, animals,
or property.

**Building, Community**: A building for the use of residents of a mobile home park containing, but not
limited to, a television room, card room, sewing room, library, pool tables, kitchen, laundry solely for
the use of residents, emergency toilet, lavatory, and bathing facilities for men and women.
**Building, Height**: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck of a mansard roof; and to the average height between plate and ridge of a gable, hip or gambrel roof.

**Building, Setback**: The minimum horizontal distance between the lot line and the nearest building part to the lot line, such distance measured at a right angle to the lot line or to the lot line extended.

**Congregate Housing**: A dwelling unit shared by 6 or fewer residents, whether or not related to one another, each of whom is 55 years of age or older.

**Day Care Center**: A licensed facility with no overnight care for the care of children, handicapped individuals, ambulatory or elderly adults. See also “Family Day Care Home”.

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**Dwelling Related Terms**

**Dwelling**: Any building, or part thereof, used for human habitation, but not including commercial accommodations for transient occupancy or a trailer or mobile home, however mounted or affixed.

**Dwelling, Multi-Family; Multiple Family House; Apartment; or Apartment House**: A structure containing 2 or more separate dwelling units.

**Dwelling, Single Family**: A detached structure containing one dwelling unit intended and designed to be occupied by a single-family.

**Dwelling Unit**: One or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one or more persons living together as a single housekeeping unit.

**Family**: One or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal living arrangements.

**Family Day Care Home**: Any private residence, which on a regular basis receives for temporary custody and care during part or all day, children under 7 years of age or children under 16 years of age if such children have special needs; provided, however, that the total number of children shall not exceed 6, including participating children living in the residence.

**Farm**: (See “Agriculture Related Terms”)

**Floor Area**: The gross horizontal area of the several floors of a building excluding areas used for accessory garage purposes, attic and basement areas. All horizontal dimensions shall be taken from the exterior faces of walls.

**Gas Station/Service Station or Filling Station**: (See “Automobile, Vehicular, and Truck Related Uses”.)

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**Greenhouse Related Terms**

**Greenhouse**: A building or accessory building where plant culture products are grown or processed.
**Greenhouse, Commercial:** A greenhouse where the products of plant culture are sold.

**Greenhouse, Non-Commercial:** A building or accessory building used to grow, cultivate or culture plants, from which no sales are processed or conducted.

**Handicapped Space:** A parking space reserved for use by a vehicle bearing an authorized handicapped license plate or permit.

**Hazardous Waste Related Terms**

**Hazardous Waste Facility:** Any facility as defined in G.L. c. 21D.

**Hazardous Waste or Material or Toxic Materials:** A substance or material, whether in gaseous, liquid or solid form, or a combination thereof, in a quantity or form that significantly contributes to serious illness or death, or that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed as hazardous by the Environmental Federal Resource Conservation and Recovery Act or similar authority, the Department of Energy or by the Commonwealth of Massachusetts pursuant to applicable Massachusetts General Laws.

Toxic or hazardous materials and wastes includes, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and include products such as pesticides, herbicides, solvents and thinners.

Wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous: airplane, boat and motor vehicle service and repair; chemical and bacteriological laboratory operation; cabinet making; dry cleaning; electronic circuit assembly; metal plating, finishing and polishing; motor and machinery service and assembly; painting, wood preserving, and furniture stripping; pesticide and herbicide application, photographic processing, printing; and chlorination of wastewater.

**Home Occupation:** An occupation conducted in the place of residence of the operator or in a building accessory thereto, but not including occupations requiring the use of hazardous or toxic materials.

**Hotel, Inn, Motel or Lodging House:** (See “Lodging Related Terms”)

**Impervious Surface:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil provided, however, any project for which an application for a new or amended Certificate of Water Quality Compliance was filed with the Water Quality Review Committee on or before November 21, 1996, pursuant to Section 6.8 of the Bylaw for new construction, additions, activities, or changes in operation shall be exempt therefrom.

**Industrial Park:** An industrial subdivision or an area with common areas and/or parking areas planned for occupancy for more than one industrial building.

**Landscape Area:** Land left substantially in a natural state or developed for recreational use, but not including public or private street rights-of-way, parking lots, service or loading areas, driveways, sidewalks, easements for above ground utilities, ground area covered by any structure other than
those structures directly related to an open space or recreational use, or any other land deemed unsuitable by the Planning Board, including but not limited to swamps and wetlands.

**Loading Space, Off-Street:** An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, which has access to a street or other appropriate means of ingress and egress.

**Lodging Related Terms**

**Bed and Breakfast:** The provision of a room overnight and of breakfast for a fee in a dwelling by the resident thereof to not more than 6 transient guests.

**Boarding House:** A building or premises, other than a hotel, inn, motel, tourist house, or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation, but not open to transient guests, in contrast to hotels, restaurants, and tourist homes open to transients.

**Hotel, Motel, Inn or Lodging House:** A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of 3 or more persons who are lodged, with or without meals, and in which major provisions for cooking may be made in a central kitchen but not be in individual rooms or suites.

**Rooming House:** A building or premises, other than a hotel, inn, motel, or tourist home, where rooms are let, and not open to transient guests, in contrast to hotels, inns, motels or transient homes open to transients.

**Short-Term Rental:** A short-term rental is an accessory use to a primary residence and includes a housing unit, an accessory dwelling unit, or a room (or rooms) within a housing unit that is rented out for lodging for a period of less than 30 days in length.

A Short-term rental requires a Special Permit as a home occupation. The residence must be occupied by the owner or operator for no less than 270 per year. A short-term rental may be hosted (where the primary occupants are present on-site during the rental) or not hosted (where the primary occupants vacate the unit or site during the rental period). For hosted rentals, occupancy is limited to no more than 2 different parties per site at a time. For rentals not hosted, occupancy is limited to one rental party per site at a time. Short-term rental operators may offer meals to lodgers.

**Tourist Home:** A building, other than a boarding or rooming house, hotel, inn, motel or lodging house, where rooms for lodging for transients are available for compensation.

**Transient:** When referring to residency or guests, a transient stays for a short period of time, which is not expected to be extended or to continue, measured in periods of less than 30 days.

**Lot Related Terms**

**Lot:** A parcel of land described by metes and bounds on a plan or deed duly recorded in the Plymouth County Registry of Deeds.

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LOT, BUILDING: That area of land described on a site plan submitted with an application for a building permit or an application for a permit or a variance, or otherwise defined as the area on which a structure is to be constructed or a use is to be conducted, but not including any part of a street.

LOT CORNER: A lot at the intersection of, and abutting one, two, or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is bounded by a curve having a radius of less than 100 feet.

LOT COVERAGE: The area of a site occupied by impervious surface.

LOT DEPTH: The distance measured perpendicular to and at every point along the frontage required.

LOT FRONTAGE: The linear extent of a lot measured in a continuous line along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line of the same lot.

LOT LINE: The established division line between lots or between a lot and a street.

LOT LINE, FRONT: The dividing line or lines, between a street and the lot line.

LOT LINE, REAR: The line, or lines, bounding a lot at the rear and approximately parallel to and at the maximum distance from the front line.

LOT LINE, SIDE: The line, or lines, bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of a corner lot, or through lots, all lines extending from streets shall be considered side lot lines.

LOT, WIDTH: The minimum distance between the side lot lines at the building line nearest the street line measured at right angles to the street line.

MEMBERSHIP CLUB: A private organization, including its building or grounds, which specifically includes country clubs and fraternities and other organizations to which membership is limited or controlled.

MOBILE HOME RELATED TERMS

**Mobile Home.** A dwelling unit built or delivered on a chassis, containing electrical, plumbing and sanitary facilities, designed to be propelled either by an attached vehicle or otherwise, and designed to be mounted or affixed on a temporary or permanent foundation; but not including a vehicle known as a travel trailer or travel coach nor any prefabricated dwelling unit which contains detachable or expandable parts equal to or greater than fifty percent of the gross floor area of the dwelling unit.

**MOBILE HOME LOT:** See Mobile Home Site.

**MOBILE HOME PARK:** A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use designed to accommodate two or more mobile homes.

**MOBILE HOME PARK PERMITTEE:** Any person, firm or corporation receiving a permit to conduct,
operate, or maintain a mobile home park.

**Mobile Home Site:** A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

**Mobile Home Stand:** That part of a mobile home site which is reserved for the mobile home.

**Nonconforming Related Terms**

**Nonconforming Uses and Structures:** An existing use of land or building which does not conform to a provision or requirement of the regulations of this Bylaw for the district in which such use of land or building exists.

**Nonconforming Uses and Structures, Pre-existing:** A use of land or of a structure which does not conform to a provisions or requirement of this Bylaw, but which was lawfully established prior to the time of the applicability of the provision or requirement.

**Office Related Terms**

**Office, Executive or Administrative:** A place in which functions such as directing, consulting, record keeping, clerical work, and sales, without the presence of merchandise, of a firm are carried on.

**Office Park:** A subdivision for office buildings or an area with common areas and/or parking areas planned for occupancy for more than one building.

**Open Space:** The area of land not covered by impervious surfaces, which is left in its natural state or landscaped with trees, shrubs, ground cover, plants, or grass.

**Parking Space:** An area for the temporary or permanent storage of a vehicle.

**Person:** Any individual, corporation, owner, lessee, licensee, and their agents.

**Premises:** One or more abutting lots or parcels which are, or are proposed to be, in the same ownership or use, together with all the buildings and structures thereon.

**Planned Residential Development:** A unified development, including one or more of residential building types, undertaken in accordance with an overall plan, incorporating a consistent architectural concept and incorporating the preservation of natural areas within the development.

**Recharge Area:** The area encompassing land and water surfaces through which precipitation enters the groundwater body, and from which ground water flows naturally, or is drawn by pumping, into a water supply well.

**Recorded:** Recorded shall mean recorded in the Plymouth County District Registry of Deeds except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court. (G.L. c. 41, § 81L)
### Section 2 - Definitions

**Fast Order Food:** Food which is primarily intended for immediate consumption rather than for use as an ingredient in or component of meals, which is available upon a short waiting time, and which is packaged or presented in such a manner that it can be eaten outside the premises where it is sold.

**Restaurant:** A place where meals or portions thereof are provided to the public.

**Restaurant, Fast Food:** An establishment whose primary business is the sale of fast order food for consumption on or off the premises.

**Rooming House:** (See “Lodging Related Terms”)

**Screen:** Concealment from view in the manner described in Section 9.5.M., Fencing, Screening, and Landscaping.

**Setback:** (See “Building Related Terms”)

**Shared Housing:** (See “Congregate Housing”).

**Shopping Center:** An area planned for occupancy by more than one retail establishment with shared common facilities.

**Short Term Rental:** (See “Lodging Related Terms”)

### Sign Related Terms

**Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, that are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

**Sign, Roof:** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**Site Plan:** A plan prepared in accordance with Section 10.3, Site Plan Review.

### Solar Related Terms – (Also See Section 6.5 – Large-Scale Ground-Mounted Solar Voltaic Installationis Overlay District)

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw.
**BUILDING INSPECTOR:** The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

**BUILDING PERMIT:** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as the Zoning Bylaw, including those governing ground-mounted large-scale solar photovoltaic installations.

**DESIGNATED LOCATION:** The locations designated by Town Meeting, in accordance with G.L, c. 40A, § 5, where ground-mounted large scale solar photovoltaic installations may be sited as-of right. These locations are shown on a Zoning Map of Kingston, Massachusetts dated December 17, 1993 revised through April 5, 2010 pursuant to G.L. c. 40A, § 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

**LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC.

**ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**RATED NAMEPLATE CAPACITY:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**SOLAR PHOTOVOLTAIC ARRAY:** An arrangement of solar photovoltaic panels.

**ZONING ENFORCEMENT AUTHORITY:** The person or board charged with enforcing the zoning ordinances or bylaws.

**STREET RELATED TERMS**

**STREET:** A public way or private way either shown on a plan approved in accordance with the Subdivision Control Law or otherwise qualifying a lot for frontage under the Subdivision Control Law.

**STREET CLASSIFICATIONS:** Streets shall be classified in the following manner:

**STREET, ARTERIAL:** Roadways with statewide significance that link cities and towns forming an integrated network. Includes major divided highways that serve corridor movements having trip lengths and travel densities characteristic of interstates. Principal function as an avenue for the circulation of traffic onto, out, or around the Town and carries high volumes of traffic.

**STREET, COLLECTOR:** Roadways that provide service to cities and towns and other traffic generators not being served by the arterial system; roads that link these places with the arterial system; and roads that serve the intra-county travel corridors. Principal function is to carry traffic between minor, local and sub-collector and arterial streets but may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.
**STREET, SUB-COLLECTOR:** Roads that bring traffic from local streets, collector roads, and roads that provide service to small communities and link traffic generators to the rural areas. Principal function is to provide access to abutting properties but is also designed to be used to connect minor and local streets with collector or arterial. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

**STREET, LOCAL:** Roads that provide access to adjacent land and roads that provide service for relatively short distances. Includes all roads not classified as part of arterial or collector system. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least 10 but not more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day.

**STREET, MINOR:** A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than 9 dwelling units and is expected to or does handle up to 75 trips per day.

**STREET LINE:** The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts; the sum total of lengths of front lot lines abutting a street.

**STREET, PAPER:** A street shown on a plan or map which has not been constructed.

**STREET, PRIVATE:** A street which has not been accepted by the Town or certified by the Town Clerk as a public street under the Subdivision Control Law.

**STRUCTURE RELATED TERMS**

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, viewing stand, bin, platform, swimming pool, fence, sign, flagpole, mast for radio antenna, satellite antenna or the like.

**STRUCTURE, ACCESSORY:** A subordinate structure clearly incidental to and customarily found in connection with the principal use, building or structure and which is located on the same lot with the main use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

**STRUCTURE, PRINCIPAL:** The primary or main structure, as distinguished from an accessory structure. A use or activity not permitted in the zoning district shall be expressly prohibited. Unless otherwise expressly permitted under these Bylaws, there shall be only one principal structure per lot.

**TOXIC OR HAZARDOUS MATERIALS:** (See “Hazardous Material, Hazardous Waste Related Terms”).

**TRACT:** (See “Lot Related Terms”.)

**TRAILER RELATED TERMS**

**TRAILER:** For the purpose of this Bylaw, the following shall be considered trailers:
Camping Trailer: A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

Motor Home: A portable, temporary dwelling to be used for travel, recreation or vacation, constructed as an integral part of a self-propelled vehicle.

Pick-Up Coach: A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation or vacation.

Travel Trailer: A portable structure built on a chassis designed as a temporary dwelling for travel, recreation, or vacation having a body width not 8 feet, and a body length not exceeding 32 feet.

Transient: (See “Lodging Related Terms”)

Truck Garage and Terminal: (See “Automobile, Vehicular, and Truck Related Terms”)

Use Related Terms

Use: The purpose for which land or a building is designed, occupied or otherwise utilized.

Use, Accessory: A subordinate use, clearly incidental to and customarily found in connection with the principal use, building, or structure, and which is located on the same lot with the main use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

Use, Principal: The primary or main use of land, building or structure, as distinguished from an accessory use. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

Visual Corridor: An area encompassed by the eye, particularly pertaining to views to natural features cross country and along rivers, streams, highways, and landscaped areas.

Wholesale: The sale of goods in large quantity for the purpose of resale.

Yard Related Terms

Yard: An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure except for fences, flagpoles, mailboxes, retaining walls, and for pools as provided in Section 9.6.

Yard, Front: An open space extending across the full width of the lot and lying between the front lot line of the lot and the nearest line of the principal building. The depth of a front yard shall be the minimum distance between the principal building and front lot line.

Yard, Rear: A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building. The depth of a rear yard shall be the minimum
distance between the principal building and the rear lot line

**Yard, Side:** A yard between the side lot line of the lot and nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines. The width of a side yard shall be the minimum distance between the principal building and the side lot line.
SECTION 3 ZONING DISTRICTS

3.1 TYPES OF DISTRICTS

The Town of Kingston is hereby divided into the following Zoning Districts:

3.1.A Underlying Zoning Districts

1. General Residential 40 (R40)
2. Residential 20 District (R20)
3. Residential 80 District (R-80)
4. Residential M - Mobile Home Park District (RM)
5. Town Center District (TC)
6. 3A Design District (3ADD)
7. Commercial District (C)
8. Industrial District (I)
9. Commercial/Industrial Park District (C/I)
10. Conservancy District (Con)

3.1.B Overlay Zoning Districts

1. Flood Plain Overlay District (FPOD))
2. Green Communities Wind Turbine Overlay District (GCWTOD)
3. Large-scale Ground-mounted Solar Voltaic Installation Overlay District (LGSVIOD)
4. Kingston Place Smart Growth Overlay District (KPSGOD)
5. Mixed Commerce Overlay District (MCOD)
6. Mixed-use Redevelopment Overlay District (MUROD)
7. Water Resource Overlay District (WROD)

3.2 LOCATION OF DISTRICTS

3.2.A. Districts on Zoning Map

Except for the Flood Plain Overlay District and the Water Resource Overlay District, districts are hereby established as shown on a map entitled Zoning Map of Kingston, MA, dated December 17, 1993, with revisions. The map, with all explanatory matter thereon, and amendments thereto, is hereby incorporated and made a part of this Bylaw and is filed with the Office of the Town Clerk.

3.2.B. Flood Insurance Rate Maps

The general boundaries of the Flood Plain Overlay District within the Town of Kingston are shown on the Plymouth County Flood Insurance Rate Maps (FIRMs) dated July 17, 2012 or November 4, 2016 and issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The exact boundaries of the District are defined by the 100 year base flood elevations shown on the FIRMs and further defined by the Flood Profiles contained in the Flood Insurance Study dated November 4, 2016. These

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maps, as well as the accompanying study, are incorporated herein by reference and are filed with
the Office of the Town Clerk, Planning Board, Building Commissioner, and Conservation
Commission.

3.2.C. Water Resource Overlay Districts Maps

The Water Resource Overlay District is established as covering the area described on the map
entitled Water Resource Districts. The maps and all explanatory matter thereon is incorporated
herein by reference and is filed with the office of the Town Clerk, Planning Board, Inspector of
Buildings, and the Conservation Commission. The Water Resource Overlay District shall be
considered to be superimposed over any other districts established in this Bylaw. Land in a Water
Resource Overlay District shall be subject to the requirements of this Bylaw well as to all other
requirements of this Zoning Bylaw and State Building Code which apply to the underlying
districts. In the event there is a conflict, the more restrictive requirement shall prevail.

3.3 PURPOSES OF DISTRICTS

3.3.A. The purposes of the Town of Kingston’s Zoning Districts are as follows:

1. General Residential 40 (R40): To provide suitable areas for low density residential uses that
will accommodate agriculture.

2. Residential 20 District (R20): To provide suitable areas for varied housing types at densities
suitable for a small town.

3. Residential 80 District (R80): To provide suitable areas for low-density residential uses that
will be compatible with other uses permitted within the boundaries of the Water Resource
Overlay District.

4. Residential M - Mobile Home Park District (RM): To provide suitable areas for the siting of
mobile home parks.

5. Town Center District (TC): The purposes of the Town Center District include the following:

   a) to encourage a mix of commercial and residential uses on individual lots throughout the
district that will complement the Town’s rich historical heritage;
   b) to provide daily services for the convenience of residents of the Town;
   c) to create a pedestrian-oriented environment by creating pedestrian links between
      existing and proposed areas of activity to better serve residents;
   d) to preserve and protect the distinctive characteristics of existing buildings and their
      architecture, and of places significant in the history of Kingston, and to encourage the
      maintenance and improvement of settings for those buildings and places; and,
   e) to encourage architectural designs for the remodeling of buildings and the construction
      of new structures that are compatible with the architectural character of the Town and
      traditional New England styles and building materials.

6. 3A Design District (3ADD): To preserve the structures which define the character of the
community, and to provide opportunity for use of these structures which is consistent with

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modern land use, and to encourage new construction which is compatible with the community.

7. Commercial District (C): To provide areas for retail business and services serving non-pedestrians and for automotive sales and services and distribution uses.

8. Industrial District (I): To provide areas for manufacturing and distribution uses that operate in accordance with Section 9.5, Performance Standards.

9. Commercial/Industrial Park District (C/I): To provide areas that have sufficient size to allow for larger scale commercial, manufacturing, and distribution uses that operate in accordance with Section 9.5, Performance Standards.

10. Conservancy District (CON): To provide for the conservation of water resources and water bodies, and preservation of open space.

11. Flood Plain Overlay District (FPOD): to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

12. Green Communities Wind Turbine Overlay District (GCWTOD): To provide for the construction and operation of wind facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city or town and provide adequate financial assurance for decommissioning.

13. Large-scale Ground-mounted Solar Voltaic Installation Overlay District (LGSVIOD): To promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

14. Kingston’s Place Smart Growth District (KPSGD): The purposes of the Kinston's Place Smart Growth Overlay District include the following:

   a) to provide an opportunity for residential, commercial and mixed use development within a distinctive, attractive and livable environment;
   b) to promote low impact, sustainable development that is pedestrian friendly;
   c) to integrate the principles of smart growth, new urbanism, and green infrastructure and building through conformance with the most recent version of the “LEED for Neighborhood Developments Rating System”, such that the Smart Growth District as a whole is eligible for “LEED-ND-Certification” by the U.S. Green Building Council;
   d) to ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of Kingston and provides an environment with safety, convenience, and amenity;
   e) to provide for a diversified housing stock at a variety of costs within walking distance of
the Kingston commuter rail station, including affordable housing, and housing types that meet the needs of the Town’s population;

f) to generate positive tax revenue; and,

g) to benefit from the financial incentives provided by G.L. c. 40R, while providing the opportunity for new business growth and additional local jobs.

15. Mixed Commerce Overlay District (MCOD): The purposes of the MCOD include the following:

a) to provide an area for a mixture of various commercial and/or light industrial land uses that reflect the goals, vision, policies and proposals of the Town of Kingston, including but not limited to employing Town resources to attract businesses which are compatible with achieving the Town’s goals and preserving its character;

b) to establish a design review process as an integral part of a streamlined and integrated permitting process which will allow the Town and developers to work together to provide that development in Kingston that is not contrary to the Town's best interests;

c) to promote economic development that results in expanded and new light industry and high-tech businesses in designated areas, providing jobs and generating an expanded tax base to provide needed public services, without increasing the tax burden of residents;

d) to concentrate commercial and industrial development in designated areas;

e) to provide additional employment opportunities; and,

f) to promote economic development for existing business enterprises and to attract new light industrial/high-tech companies.

16. Mixed-use Redevelopment Overlay District (MUROD): The purpose of the MUROD is to establish an overlay district that allows for a mixture of residential, retail, commercial, entertainment, and mixed-use development within a distinctive, attractive, and lovable environment that reflects the goals, vision, and policies of the Town of Kingston.

17. Water Resource Overlay District (WORD): To preserve the quality and quantity of the Town’s groundwater and surface water resources to insure a safe and healthy public water supply.

3.4 BOUNDARIES OF DISTRICTS

3.4.A. Center Lines

Where the boundary lines are shown on the maps described in Section 3.2, Location of Districts, within the street lines of public and private ways, or utility transmission lines, the center lines of those ways or lines shall be the boundary lines, unless otherwise indicated.

3.4.B. Parallel Boundary Lines

Boundary lines located outside of street lines or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to the street or transmission lines and dimensions shown in figures represent the depth of the district.

3.4.C. Property and Lot Line Boundary

Where the boundary lines are shown approximately on the location of property or lot lines, and the
exact location of property, lot, or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.

3.4.D. Brooks and Stream Boundary

When the boundary lines are shown upon the zoning map along the boundary of brooks and streams or in brooks and streams, the center line of those brooks and streams shall be the boundary line. Where the boundary line is along or in a body of water, the high water line shall be the boundary line.

3.4.E. Contour Lines

Contour lines used as boundary lines are the elevation above the datum sea level as indicated by the U.S. Coast and Geodetic maps of the Town of Kingston on file in the offices of the Planning Board and Town Clerk.

3.4.F. Flood Plain Overlay District & Water Resources Overlay District

See also Section 6.2 for the Flood Plain Overlay District and Section 6.8 for the Water Resource Overlay District boundaries.

3.4.G. Determination of a Boundary

In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon the zoning map, by the use of identifications as shown on the map, or by the scale of the zoning map.

3.5 BOUNDARY LINE DIVIDING A LOT

3.5.A. Lots Located in 2 or More Districts

Where a District boundary line divides any lot existing at the time the boundary line was adopted, the regulations for the less restricted portions of the lot shall extend not more than 50 feet into the more restricted portion of the lot, provided that:

1. The lot has frontage on a street in the less restricted District.
2. The extension into the more restricted District is allowed by special permit by the Board of Appeals subject to appropriate conditions or safeguards where they are deemed necessary for safety or to provide a buffer between the use in the less restricted District and the more restricted District.
3. The lot meets the conditions in Section 10.7.B of this Bylaw.

3.6 RESIDENTIAL M - MOBILE HOME PARKS

3.6.A. General Requirements

Residential M - Mobile Home Park District (RM) - In accordance with Section 4.4., of this Bylaw,
mobile home parks in the Town of Kingston shall comply with the following provisions:

1. For every 5000 persons resident in the Town of Kingston or any fraction thereof, one mobile home park may be permitted by the Board of Appeals. For this purpose, the latest accurate census of the Town of Kingston shall be used if certified by the Town Clerk. In the absence of such certification, the latest United States Census shall govern.

2. In no case shall the total aggregate number of mobile homes in all complexes exceed 15% of the total number of dwelling units in existence in the Town of Kingston at the time of application. For this purpose, the most recent figures of the Kingston Board of Assessors shall govern. The maximum number of mobile homes permitted in any one mobile home park shall be 350.

3. The minimum area of the mobile home park shall be 50 acres.

4. The minimum lot area, continuous lot frontage, yard dimensions, and maximum lot coverage including accessory buildings shall be in conformance with the Intensity and Dimensional Regulations in Section 8.0. Screened and roofed porches and open decks may be constructed in side and rear yards, but not closer than 10 feet of said lot lines.

5. There shall not be more than one mobile home per lot.

6. All mobile home lots shall abut on a roadway. All roads within the park shall conform to the Subdivision Regulations, Section V and shall be maintained in good and proper condition. All roads, utilities, and drainage shall be installed and approved by the Planning Board before occupancy will be allowed in said park. The Planning Board may approve the mobile home park in sections for occupancy. Completion of the park must be within 7 years of the Planning Board’s final approval.

7. No mobile home shall be located closer than 300 feet from any public highway and shall be properly screened therefrom. The remaining perimeter of the mobile home park shall be screened for a minimum width of 20 feet with natural growth, hedges and the like. All screening shall be established and maintained in a manner satisfactory to the Board of Appeals. No mobile home lot shall be included within the screening area.

8. Each mobile home site shall be provided with an approved underground electrical connection specifically metered unless such underground electrical connection is waived by the Board of Appeals.

9. Street lights of not less than 3000 lumens each shall be installed by the permittee at intervals of not more than 150 feet apart.

10. No occupied travel trailer, pick-up coach, motor home, or camping trailer shall be permitted in a mobile home park as a dwelling.

11. Each building and mobile home stand shall be an element of an overall plan of site development.

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12. Where possible, mobile home stands shall be oriented with respect to scenic vistas, natural landscape features, topographic and natural drainage areas. Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, service, and parking areas. Screening devices shall not impair pedestrian or vehicular safety.

13. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and designed so as not to be unsightly or hazardous to the public.

14. Residential open space within the allowable density limits shall be allocated to the recreational amenity and environmental enhancement of the mobile home park and shall be designed as such on the site plan for the proposed development.

15. After approval of a proposed mobile home park there shall be no further subdivision of land within the proposed development which would increase the allowable net density.

16. Mobile home stands shall be provided with a minimum of 12 piers resting on a 6 inch concrete pad slab. There shall be no storage of any material whatsoever underneath the perimeter of the mobile home. Approved anchoring must be provided to be attached to the concrete slab.

17. All individual mobile homes shall be equipped with aluminum slat skirts or other suitable type of enclosure and must be maintained in a suitable condition at all times. A mobile home owner after having established his mobile home in a mobile home park shall have 30 days to conform with the requirement.

18. Enclosed tenant storage must be provided for material, which is used only seasonally or infrequently, and which cannot be conveniently stored in a mobile home. The permittee may provide community storage or may provide storage by constructing individual storage buildings for mobile home sites. Such individual storage buildings must be uniformly constructed, must be approved by the Town Building Official as to construction, must be erected on a 6 inch concrete slab with approved anchoring and the outside dimensions must be a minimum of 6 feet by 8 feet or a maximum of 8 feet by 20 feet along the sides and 8 feet in height. Such storage buildings shall be located in the rear corner of the unit space and shall be located not less than 10 feet from any side yard and shall be not less than 5 feet from any rear lot line.

19. No permanent additions, such as lean-tos, enclosures, or rooms shall be added to any mobile home; provided, however, that open porches with awnings and removable skirting may be installed. In addition, such additions do not infringe in front, side, or back yard minimum dimensions in accordance with section 7. Intensity And Dimensional Regulations.

20. All residents of the park must be 55 years of age or over. The community building must be constructed for the exclusive use by the residents and their guests before 51% of the dwelling units are occupied. Parking spaces shall be provided in accordance with Section 8.2. with an adjacent area available should the need arise.

21. Before occupancy is allowed for any mobile home with on-site sewage and/or a water well, a certified “as build” plot plan showing the exact placement of the mobile home porches and

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sheds on the lot (and all the related appurtenances) must be given to the Building Commissioner.

22. Natural gas and liquefied petroleum gas systems shall comply with all applicable codes and regulations. All fuel oil supply systems shall be constructed and installed underground in each mobile home lot in accordance with all applicable codes and regulations.

23. A person to whom a special permit is issued shall operate the park in compliance with all regulations, and provide adequate supervision to maintain the park, its facilities, and equipment in good order and in clean and sanitary condition.

24. The sale of mobile homes shall be limited to mobile homes being placed within the park. No more mobile homes shall be allowed unless they are placed on a mobile home lot as if to be used as a residence.

25. No business of any kind is to be conducted in the park with the exception of coin-operated vending machines located within the confines of the community building.

26. All roads in the mobile home park shall be maintained by the permittee. They shall be kept passable and in good condition at all time. Snow and ice removal shall be done by the permittee at his expense.
SECTION 4 – USE PROHIBITIONS & NONCONFORMING REGULATIONS

SECTION 4 USE PROHIBITIONS & NONCONFORMING REGULATIONS

4.1 USE PROHIBITIONS

4.1.A. GENERAL PROHIBITION

Any use of a building, structure, or land not specifically permitted by this Bylaw is prohibited.

4.1.B. USES PROHIBITED IN ALL DISTRICTS

1. Except as allowed in Section 5.0, Table of Uses, under the category of "Gasoline service station" and the conditions attached thereto, there shall be no more than one unregistered vehicle on a lot, unless stored within a structure or screened in accordance with Section 9.5.M. Fencing, Screening and Landscaping.

2. An unregistered vehicle in the front yard is prohibited, unless authorized pursuant to a permitted commercial use.

3. The withdrawal of water for transport and sale outside the Town of Kingston is prohibited.

4.2 NONCONFORMING STRUCTURE, USE, OR LOT

4.2.A NONCONFORMING STRUCTURE, USE, OR LOT

Nonconforming structures, uses, and lots shall be subject to the provision of Sections 1 – 6 below

1. NONCONFORMING – Any principal or accessory structure, use, or lot which does not conform to the requirements of the Bylaw but which was lawfully in existence or lawfully begun or for which a building permit or special permit has been issued before the first notice of the public hearing on this Bylaw or any amendment thereto shall be deemed to be a lawfully existing nonconforming structure or use.

2. APPLICATION OF BYLAW – Thus Bylaw and any amendments thereto shall not apply to any lawfully nonconforming use or structure but shall apply to any change or substantial extension of such use or structure, to a building or special permit issued after the first notice of the public hearing, to any reconstruction, extension, or structural change of the structure, and to any alteration of a structure begun after the first notice of the public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

3. RESTORATION OR RECONSTRUCTION – Necessary repairs to and/or rebuilding of a structure for a nonconforming use or of a nonconforming structure after damage by fire, storm, or similar disaster, are permitted provided they are accomplished without undue delay and do not substantially change the character or size of the building, nor the use to which it was put prior to the damage.
4. **CHANGE, EXTENSION OR ALTERATION** – Nonconforming structures or uses may be extended or altered, provided that:

   (a) No such extension or alteration shall be permitted unless authorized by special permit of the Board of Appeals which shall find that the change, extension, or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

   (b) Each application for a special permit shall be subject to the provisions of Section 10.3 Site Plan Review.

   (c) This section shall not apply to billboards, signs, and other advertising devices subject to the provisions of G.L. c. 93, §§ 29 through 33, inclusive, and to G.L. c. 93D.

5. **ALTERATIONS NOT REQUIRING A SPECIAL PERMIT** – Notwithstanding Section 4.2.A.4 above, nonconforming structures may be altered without a special permit under the following conditions:

   (a) That the alteration is within the existing building footprint and does not increase the floor area.

   (b) That non-conforming dwellings may be altered or enlarged without a special permit providing the following minimum dimensional requirements are met. An alteration, enlargement, extension, or structural change is in conformity with yard requirements applicable at the time of original construction or, if there were none, conformity with the following minimum standards:

      i. Front yard – 25 feet  Side yard – 15 feet  Rear yard – 20 feet

      ii. Increases in front, rear, or side yard dimensional requirements shall not apply to existing dwellings, provided that a minimum front yard of 25 feet, minimum side yards of 15 feet, and a minimum rear yard of 20 feet are maintained.

6. **DISCONTINUANCE AND ABANDONMENT** – Non-conforming uses discontinued or not used for a period of 2 or more years shall be deemed to be abandoned.
5.1 Keys to Table of Uses

5.1.A. Key to Table of Uses Table Abbreviations – Uses Permitted, Not Permitted, Permitted by Special Permit, and/or by Site Plan Review

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>Use is Permitted by Right</td>
</tr>
<tr>
<td>X</td>
<td>Use is Not Permitted</td>
</tr>
<tr>
<td>SPPB</td>
<td>Special Permit required from the Planning Board</td>
</tr>
<tr>
<td>SPBA</td>
<td>Special Permit required from the Board of Appeals</td>
</tr>
<tr>
<td>SPR</td>
<td>Site Plan Review required from the Planning Board</td>
</tr>
</tbody>
</table>

5.1.B. Key to Table of Uses Abbreviations – Zoning Districts

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-20</td>
<td>Residential 20</td>
</tr>
<tr>
<td>R-40</td>
<td>General Residential 40</td>
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<td>R-80</td>
<td>Residential 80</td>
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<tr>
<td>RM</td>
<td>Residential Mobile Home Park</td>
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<tr>
<td>TC</td>
<td>Town Center</td>
</tr>
<tr>
<td>C</td>
<td>Commercial</td>
</tr>
<tr>
<td>C/I</td>
<td>Commercial Industrial</td>
</tr>
<tr>
<td>3A DD</td>
<td>Route 3A Design District</td>
</tr>
<tr>
<td>I</td>
<td>Industrial</td>
</tr>
<tr>
<td>Cons.</td>
<td>Conservancy</td>
</tr>
</tbody>
</table>

5.1.C. Key to Letter Designations

Where there are small letter designations in the Table of Uses located under the designation of whether and how a use is allowed, (for example, a-c; a-d; a-m etc.), they designate the requirements found in the superscript number that applies to that particular use. The superscript is found directly below the Table of Uses on the same page where that use is located in the Table of Uses.
## 5.2 Table of Uses

<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-20</td>
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<tr>
<td>Residential Uses</td>
<td></td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>X</td>
</tr>
<tr>
<td>Congregate Housing</td>
<td>X</td>
</tr>
<tr>
<td>Home occupation (no non-residents employed at premises) (^2)</td>
<td>P (a-d)</td>
</tr>
<tr>
<td>Home Occupation (up to two non-residents employed at premises) (^3)</td>
<td>SPPB (a-e)</td>
</tr>
<tr>
<td>Mobile home park subject to § 3.6</td>
<td>X</td>
</tr>
<tr>
<td>Multiple dwellings subject to § 7.6</td>
<td>SPPB</td>
</tr>
</tbody>
</table>

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1 Provided that:
   - (a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board. (continued on the next page)
   - (b) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
   - (c) there shall be no exterior storage
   - (d) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

2 Provided that:
   - (a) parking shall not exceed the parking allowed for a single-family residential use
   - (b) not more than 25% of total gross floor area is regularly devoted to such use
   - (c) there is no equipment used in connection with such home occupation visible from the street or abutting property
   - (d) no display of products is visible from the street

3 Provided that:
   - (a) the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants
   - (b) not more than 25% of the total gross floor area is regularly devoted to such use
   - (c) there is no equipment used in connection with such home occupation visible from the street or abutting property
   - (d) no display of products is visible from the street
   - (e) there shall be adequate off-street parking in accordance with § 9.2, Off-Street Parking Requirements, for any employee or visitors in connection with such use. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. Vehicles used in connection with the occupation shall be parked in the rear or side yard or in a structure.

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<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-profit camp (overnight accommodations are in tents and there are no transient overnight accommodations)</td>
<td>R-20</td>
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<tr>
<td></td>
<td>X</td>
</tr>
<tr>
<td>One accessory unit to single family dwelling 4</td>
<td>SPPB (a-m)</td>
</tr>
</tbody>
</table>

Provided that:

(a) the principal residential structure is on a lot which meets or exceeds the minimum lot size in § 8.0 Intensity and Dimensional Regulations
(b) the principal residential structure has at least 1200 sq. ft.
(c) the entire structure used for dwellings shall not occupy more than 25 % of the lot area
(d) there is at least one off-street parking space for each bedroom or accessory unit in the converted portion of the structure, which space shall not be provided in the front or side yard
(e) there is provision for screening by fencing or landscaping of outside storage areas
(f) neither the principal residential structure nor accessory unit shall have a gross floor area of less than 500 sq. ft. plus 100 sq. ft. for each bedroom over one
(g) the gross floor area of the newly created unit shall not be more than 30 % of the normally habitable gross floor area excluding the garage, unfinished crawl space, and other normally uninhabitable gross floor area of the principal residential structure, after conversion.
(h) each unit shall be a complete and independent housekeeping unit, containing a bedroom or bedroom/living room combination, bathroom and kitchen or kitchenette and shall have a separate entrance
(i) the exterior appearance of the structure shall not be altered except for: (1) stairways and exits required by law, which shall be in the rear of the building and (2) restoration consistent with the original architecture of the structure.
(j) R20 only: one of the units shall be occupied by the owner of the property, or in the case of a realty trust, corporation or partnership, a beneficiary, shareholder, or partner respectively
R40 and R80 only: Either the apartment or the principal residence shall be occupied by the owner of the lot on which the accessory housing unit is located, except for bona fide temporary absences
(k) if the accessory housing unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings and the Zoning Enforcement Officer in writing
(l) R20 only: No permit for an accessory housing unit granted hereunder shall take effect sooner than one year after occupancy of the principal residential structure. R40 and R80 only: No permit for an accessory housing unit granted hereunder shall take effect sooner than three years after occupancy of the principal residential structure.
(m) all permits for accessory housing must be secured before any construction is undertaken
(n) all special permits granted under this section shall expire within 3 years from the date of the special permit issued by the Planning Board. At the end of every 3 years, renewal shall be automatically granted upon receipt of certification by the Planning Board that the property remains the principal residence of the owner and that all conditions met at the time of the original application remain unchanged. The Planning Board, in its sole discretion, may acquire a new application and a demonstration of compliance with all conditions necessary for a special permit.
(o) the applicant shall submit to the Planning Board, prior to the required public hearing, a written report obtained by the Board of Health which certified that adequate provision has been made for the disposal of sewage, waste, and drainage in accordance with Title 5 of the Sanitary Code and the requirements of the Board of Health.

Town of Kingston MA Zoning Bylaw
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## USES

<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-20</td>
</tr>
<tr>
<td>One family dwelling in a mobile home park for use as manager’s residence</td>
<td>X</td>
</tr>
<tr>
<td>Residential Development Encouraging Open Space (RDEOS - see § 7.5)</td>
<td>X</td>
</tr>
<tr>
<td>Remodeling an existing dwelling or structure accessory to an existing dwelling to accommodate 1 added dwelling unit</td>
<td>X</td>
</tr>
<tr>
<td>Renting of not more than 2 rooms by a resident occupying the dwelling to not more than 3 transient persons</td>
<td>P</td>
</tr>
<tr>
<td>Short Term Rental</td>
<td>SPPB</td>
</tr>
</tbody>
</table>

5 Provided that:
(a) the dwelling complies with the building requirements of the Town
(b) a portion of such dwelling may be utilized for the management office
(c) the dwelling shall occupy its own lot of 20,000 sq. ft. minimum area within the mobile home park.

6 Provided that:
(a) the building was in existence on January 1, 1940
(b) the lot is in compliance with § 8.0 Intensity and Dimensional Regulations
(c) no more than 25% of the lot area is covered by structures
(d) there is at least one off-street parking space for each dwelling unit contained in the structure, which space shall be provided behind the setback line.
(e) outside storage areas shall be screened by fencing or landscaping
(f) the principal structure to be converted shall contain at least 1,100 sq. ft.
(g) no unit shall have a gross floor area of less than 350 sq. ft. plus 100 sq. ft. for each bedroom in excess of one
(h) the gross floor area of the newly created unit(s) shall be less than 50% of the total gross floor area of the principal dwelling unit, after conversion
(i) the exterior appearance of the structure shall not be altered except for the stairways and exits required by law
(j) one unit shall be occupied by the owner of the property, or in the case of a realty trust, corporation, or partnership, a beneficiary, shareholder or partner
(k) if the secondary unit is in an accessory building, approval of the Planning Board shall be obtained in accordance with G.L. c. 41 § 81O and the Planning Board Subdivision Regulations
(l) if the second unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing

7 Provided that:
(a) The architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board

---

Town of Kingston MA Zoning Bylaw
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<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Town of Kingston MA Zoning Bylaw</strong>  November 2019</td>
<td></td>
</tr>
<tr>
<td><strong>SECTION 5 – USE REGULATIONS – TABLE OF USES</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>R-20</th>
<th>R-40</th>
<th>R-80</th>
<th>RM</th>
<th>TC</th>
<th>C</th>
<th>I</th>
<th>C/I Park</th>
<th>3A DD</th>
<th>Cons.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Single Family Detached Dwelling</strong></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td><strong>Single Family Dwelling (not detached)</strong></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td><strong>Structures for not more than six dwelling units</strong></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPPB (a-e)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Tourist home (excluding over-night cabin, motel, or hotel)</strong></td>
<td>SPPB</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPPB (a-c)</td>
<td>X</td>
</tr>
<tr>
<td><strong>Trailer camp, park or court</strong></td>
<td>SPBA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Trailer, trailer coach or mobile home used as a dwelling, provided that (a) it is not used as an office incidental to construction on the premises and (b) it is not used for more than 6 months in any calendar year.</strong></td>
<td>SPBA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPBA</td>
</tr>
</tbody>
</table>

(b) parking shall be off-street, located behind the setback line of the principal building, landscaped, and shall conform to § 9.2, Off-Street Parking Requirements.  
(c) there shall be no exterior storage

Provided that:
(a) the maximum coverage of the lot by the buildings and structures shall be 20% of the total lot area and the minimum landscaped area shall not be less than 25% of the lot area
(b) no portion of any enclosing wall of any building and no portion of any permissible structure shall be nearer to the street line of an existing public or private way than 50 ft. nor nearer the side lot than 30 ft. nor nearer the rear lot line than 30 ft. and shall not be nearer than 20 ft. to any interior drive
(c) no building in a group shall be closer to any other building on the lot or adjacent lot than a distance of 50 ft.
(d) there shall be provided a permanent off-street parking area, indoors and/or outdoors sufficient in size to allow two parking spaces for each dwelling unit to be accommodated
(e) elevations and floor plans shall be submitted in addition to all other requirements for a site plan as provided in § 10.3, Site Plan Review

Provided that:
(a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
(b) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
(c) there shall be no exterior storage
### USES

#### ZONING DISTRICTS

<table>
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<tr>
<th>USES</th>
<th>R-20</th>
<th>R-40</th>
<th>R-80</th>
<th>RM</th>
<th>TC</th>
<th>C</th>
<th>I</th>
<th>C/I Park</th>
<th>3A DD</th>
<th>Cons.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two-Family Dwelling</td>
<td>SPPB</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td><strong>Agriculture</strong></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture, as protected under G.L. c. 40A, § 3, located on parcels containing at least 5 acres</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Raising of livestock and poultry, but not including swine or fur bearing animals, not for commercial sale ¹⁰</td>
<td>SPBA (a-c)</td>
<td>P (a-b)</td>
<td>P (a-b)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SBPA (a-b)</td>
</tr>
<tr>
<td>Riding stable</td>
<td>X</td>
<td>SPBA</td>
<td>SPBA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPBA</td>
</tr>
<tr>
<td>Salesroom or stand for display or sale of horticultural products, the major portion of which is grown or produced on the premises by a resident proprietor</td>
<td>SPPB</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Community Uses</strong></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Cemetery</td>
<td>SPBA</td>
<td>SPBA</td>
<td>SPBA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPBA</td>
</tr>
<tr>
<td>Religious Institution</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Child Care Facility as defined in G.L. c. 15D</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Commuter rail station, not including marshalling yards or repair facilities</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
<td>SPA</td>
</tr>
</tbody>
</table>

---

¹⁰ Provided that:

(a) any stable enclosure or fence shall be in the rear yard and not less than 30 ft. from any lot line
(b) there shall no raising of swine or fur bearing animals, except as permitted in G.L. c. 40A, §
(c) in addition to the minimum lot size regulations of § 8.0, Intensity and Dimensional Regulations, there shall be an additional acre for each horse, cow, or other large animal.

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**SECTION 5 – USE REGULATIONS – TABLE OF USES**

<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conversion of a publicly owned library, museum, office or other public use building into leasable professional office space, or private business not to include retail use</td>
<td>R-20</td>
</tr>
<tr>
<td>Country or tennis club, or non-profit social, civic or recreational lodge or club, but not including any use the principal activity of which is customarily conducted as a business, provided that any function room shall have access from a collector street or arterial street</td>
<td>SPBA</td>
</tr>
<tr>
<td>Crematorium</td>
<td>X</td>
</tr>
<tr>
<td>Easement for drainage, utilities, walkways, roads, and driveways</td>
<td>p</td>
</tr>
<tr>
<td>Family Child Care Home</td>
<td>P</td>
</tr>
<tr>
<td>Governmental uses</td>
<td>X</td>
</tr>
<tr>
<td>Hospital, sanitarium, nursing, rest or convalescent home; charitable institution or other non-correctional institutional use</td>
<td>SPBA</td>
</tr>
<tr>
<td>Library, museum, or civic center, public buildings and premises for gov’t use</td>
<td>P</td>
</tr>
</tbody>
</table>

---

11 Provided that:
   (a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board.
   (b) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements.
   (c) there shall be no exterior storage
   (d) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

12 Enclosed, customarily accessory uses also permitted

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<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outdoor movie theater</td>
<td>R-20 R-40 R-80 RM TC C I C/I Park 3A DD Cons.</td>
</tr>
<tr>
<td>Private schools</td>
<td>SPA SPA SPA SPA SPBA SPA SPA SPA SPA SPBA</td>
</tr>
<tr>
<td>Public recreational use</td>
<td>P P P X X X X X SPBB13 (a-e) P</td>
</tr>
<tr>
<td>Recreational, social, or cultural facilities, such as theatres, playhouses, band shells, outdoor pavilions, museums and community centers.</td>
<td>X X X X X X X X X</td>
</tr>
<tr>
<td>Undertaking establishment or funeral home</td>
<td>SPBA SPBA SPBA X SPBA SPBA X SPBA X SPBA</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial/Industrial Uses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Hospital or Clinic</td>
<td>X X X X X SPBA X SPBA X</td>
</tr>
<tr>
<td>Artist and/or craft studios and galleries</td>
<td>X X X X P14 X X X SPBB15 (a-f)</td>
</tr>
</tbody>
</table>

13 Provided that:
(a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
(b) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street.
(c) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
(d) there shall be no exterior storage
(e) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

14 Enclosed, customarily accessory uses also permitted

15 Provided that:
(a) the products sold at retail directly to the customer on premises or by mail order only to customer
(b) the products are indigenous to the arts or to the hand craft industries, such as hand loomed fabrics, hand blown glass, pottery, and painting, or specialty food products, such as baked goods and candy
(c) there are no more than the equivalent of 6 full-time employees on the premises at any one time
(d) the only machinery on the premises is powered by hand or by motors of not more than one and one half (1.5) horsepower
(e) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
(f) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street

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<thead>
<tr>
<th>USES</th>
<th>R-20</th>
<th>R-40</th>
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<th>C</th>
<th>I</th>
<th>C/I Park</th>
<th>3A DD</th>
<th>Cons.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks, provided that all drive-through window service is to the rear of the structure and no vehicles queue on street</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>SPPB</td>
<td>SPPB</td>
<td>X</td>
<td>SPPB</td>
<td>X</td>
</tr>
<tr>
<td>Business or professional offices</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>p</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Commercial breeding, sale or boarding of dogs or cats (any kennel enclosure shall be no less than 30 ft. from lot lines)</td>
<td>SPBA</td>
<td>SPBA</td>
<td>SPBA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
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<tr>
<td>Commercial outdoor amusement or recreation place or place of assembly</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPPB</td>
<td>(a-b)</td>
<td></td>
<td>SPBA</td>
<td>(a-b)</td>
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<tr>
<td>Commercial indoor tennis club or recreation facilities</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPPB</td>
<td>(a-b)</td>
<td></td>
<td></td>
<td>X</td>
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</tbody>
</table>

(g) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements.
(h) there shall be no exterior storage
(i) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure.

16 Enclosed, customarily accessory uses also permitted
17 Provided that:
   (a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
   (b) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street.
   (c) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements.
   (d) there shall be no exterior storage
   (e) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

18 Provided that:
   (a) the building is so insulated and maintained as to confine the noise to the premises
   (b) the building is located not less than 100 ft. from a residential district

19 Provided that
   (a) the building is insulated and maintained so as to confine the noise to the premises.
   (b) the building is located not less than 100 ft. from a Residential District

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<thead>
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<th>USES</th>
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<tr>
<td>Conversion of a publicly owned library, museum, office or other</td>
<td>SPBA</td>
</tr>
<tr>
<td>public use building into leasable professional office space, or</td>
<td></td>
</tr>
<tr>
<td>private business not to include retail use</td>
<td></td>
</tr>
<tr>
<td>Distribution and storage of lumber, building material, and fuel20</td>
<td>X</td>
</tr>
<tr>
<td>Gasoline service stations 21</td>
<td>X</td>
</tr>
<tr>
<td>Hotels and Motels</td>
<td>X</td>
</tr>
<tr>
<td>Laundries or dry cleaning establishments</td>
<td>X</td>
</tr>
<tr>
<td>Marina, boat livery, sales, or storage and repair of boats and</td>
<td>X</td>
</tr>
<tr>
<td>other marine accessories</td>
<td></td>
</tr>
<tr>
<td>Motor vehicle sales and repair facilities, including repairing,</td>
<td>X</td>
</tr>
<tr>
<td>painting, or storing motor vehicles 22</td>
<td></td>
</tr>
</tbody>
</table>

20 Provided that
(a) no petroleum products are stored above ground in tanks exceeding 10,000 gallons in capacity
(b) no bulk sales, outside display and storage occurs to the rear of the principal building

21 Provided that
(a) all pump islands shall be set back at least 15 ft. from the front lot line
(b) no unregistered vehicle or vehicles in any inoperative condition are to remain on the site for more than a 2 week period unless enclosed in a building or unless a screening is provided and maintained along adjoining properties and abutting public ways
(c) Areas not covered by buildings or pavement shall be maintained as a landscaped area

22 Provided that
(a) the vehicles to be repaired are screened from abutting lots and exterior streets by a solid landscaped screen and/or fence at least 5 ft. in height
(b) No more than 10 vehicles for sale shall be displayed at one time in a manner visible from a public way

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<tbody>
<tr>
<td></td>
<td>R-20</td>
</tr>
<tr>
<td>Offices for executive/administrative services</td>
<td>X</td>
</tr>
<tr>
<td>Public parking garages</td>
<td>X</td>
</tr>
<tr>
<td>Public utility building, or yards, contractor’s offices and storage yards(^23)</td>
<td>X</td>
</tr>
<tr>
<td>Repair shop (such as shoe repair, appliance or electronic repair, jewelry repair) with a max gross floor area of 2,000 sq. ft.</td>
<td>X</td>
</tr>
<tr>
<td>Restaurants where food/beverages are consumed (no drive-in or window service)</td>
<td>X</td>
</tr>
<tr>
<td>Restaurants, fast food restaurants, banks or other retail establishments (with drive-in or window services) (^26)</td>
<td>X</td>
</tr>
</tbody>
</table>

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\(^23\) Provided that:
(a) the use is screened from abutting lots or exterior streets by a solid landscaped screen and/or fence at least 5 ft. but no more than 7 ft. in height

\(^24\) Enclosed, customarily accessory uses also permitted

\(^25\) Provided that:
(a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
(b) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street.
(c) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
(d) there shall be no exterior storage
(e) except for parking as required in § 9.2, and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

\(^26\) Provided that:
(a) no vehicles waiting for service shall park or stand on a public way
(b) the establishment shall be responsible for collecting and properly disposing of litter within 500 sq. ft. of the premises resulting from its sales at least daily, and more frequently if necessary, to prevent unsightly conditions caused by litter

Town of Kingston MA Zoning Bylaw
November 2019

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### Section 5 – Use Regulations – Table of Uses

<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-20</td>
</tr>
<tr>
<td>Retail business or service within structure not more than 4,000 sq. ft. of gross floor area</td>
<td>X</td>
</tr>
<tr>
<td>Retail business or services conducted within a structure over 4,000 sq. ft. of gross floor area, and shopping centers and office parks 27</td>
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</tr>
<tr>
<td>Retail business or services conducted within a structure over 20,000 sq. ft. of gross floor area and shopping centers and office parks 28</td>
<td>X</td>
</tr>
<tr>
<td>Retail business or services conducted within a structure up to 20,000 sq. ft. of gross floor area provided that the gross floor area does not exceed 25% of lot</td>
<td>X</td>
</tr>
<tr>
<td>Retail sales and services</td>
<td>X</td>
</tr>
</tbody>
</table>

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27 Provided that
(a) In an office park or shopping center with condominium or cooperative ownership, an agreement of maintenance of common areas is filled with and approved by the Planning Board as a condition of the special permit

28 Provided that
(a) In an office park or shopping center with condominium or cooperative ownership, an agreement of maintenance of common areas is filled with and approved by the Planning Board as a condition of the special permit

29 Provided that:
(a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
(b) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street.
(c) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
(d) there shall be no exterior storage
(e) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

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Town of Kingston MA Zoning Bylaw
November 2019

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## USES

<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail store with a max gross floor area of 5,000 sq. ft.</td>
<td>X</td>
</tr>
<tr>
<td>Sale or leasing of farm implements (all bulk sales, outside display</td>
<td>X</td>
</tr>
<tr>
<td>and storage occurs to the rear of the principal building)</td>
<td></td>
</tr>
<tr>
<td>Service shop (such as a barber shop, beauty shop, dry-cleaning pick-</td>
<td>X</td>
</tr>
<tr>
<td>up shop) with max gross floor area of 2,000 sq. ft. and no on-site</td>
<td></td>
</tr>
<tr>
<td>dry cleaning</td>
<td></td>
</tr>
<tr>
<td>Small wastewater treatment facilities designed and operated in</td>
<td>P</td>
</tr>
<tr>
<td>accordance with Planning Board regulations&lt;sup&gt;32&lt;/sup&gt;</td>
<td>(a-c)</td>
</tr>
<tr>
<td>Wholesale office or showroom, warehouses and food distribution</td>
<td>X</td>
</tr>
<tr>
<td>centers (all bulk sales, outside display and storage occurs to the</td>
<td></td>
</tr>
<tr>
<td>rear of the principal building)</td>
<td></td>
</tr>
</tbody>
</table>

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<sup>30</sup> Enclosed, customarily accessory uses are also permitted.

<sup>31</sup> Provided that:
- (a) the architectural style of the original structure shall not be altered, and new construction shall be of a compatible Cape Cod or Colonial residential style approved by the Planning Board
- (b) there shall be no drive-in or window service unless all drive-through window service is to the rear of the structure and no vehicles queue on street
- (c) all parking shall be off-street, shall be located behind the setback line of the principal building, shall be landscaped and shall conform to the provisions of § 9.2, Off-Street Parking Requirements
- (d) there shall be no exterior storage
- (e) except for parking as required in § 9.2 and an announcement sign in accordance with the provisions of § 9.4, Signs, there shall be no exterior evidence of the non-residential use of the structure

---

<sup>32</sup> Provided that:
- (a) the location of such plants shall be shown on a Site Plan approved by the Planning Board in accordance with § 10.3, Site Plan Review
- (b) the facility shall be located on a lot in conformance with the dimensional regulations in § 8.2, Dimensional Requirements, for the District in which it is located
- (c) no construction is undertaken prior to the granting of disposal works construction permit by the Board of Health

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Town of Kingston MA Zoning Bylaw
November 2019
<table>
<thead>
<tr>
<th>USES</th>
<th>ZONING DISTRICTS</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>R-20</td>
</tr>
<tr>
<td>Uses accessory to activities otherwise permitted as a matter of right, which are necessary in connection with scientific research/activities permitted by right</td>
<td>SPBA</td>
</tr>
<tr>
<td><strong>Marijuana Establishments</strong></td>
<td></td>
</tr>
<tr>
<td>Craft Marijuana Cultivator Cooperative</td>
<td>X</td>
</tr>
<tr>
<td>Marijuana Cultivator</td>
<td>X</td>
</tr>
<tr>
<td>Marijuana Product Manufacturer</td>
<td>X</td>
</tr>
<tr>
<td>Marijuana Retailer</td>
<td>X</td>
</tr>
<tr>
<td>Marijuana Testing Facility</td>
<td>X</td>
</tr>
<tr>
<td><strong>Bottling or packaging of previously prepared products</strong></td>
<td></td>
</tr>
<tr>
<td>up to 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
<td>X</td>
</tr>
<tr>
<td>over 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
<td>X</td>
</tr>
<tr>
<td>up to 20,000 sq. ft. of gross floor area or 130,680 sq. ft. of land; gross floor area cannot exceed 25% lot</td>
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<td>over 20,000 sq. ft. of gross floor area or 130,680 sq. ft. of land; gross floor area cannot exceed 25% lot</td>
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</tr>
<tr>
<td><strong>Industrial Park</strong></td>
<td></td>
</tr>
<tr>
<td>up to 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
<td>X</td>
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Town of Kingston MA Zoning Bylaw
November 2019

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## Section 5 – Use Regulations – Table of Uses

### Uses

<table>
<thead>
<tr>
<th>Uses</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-20</td>
</tr>
<tr>
<td>over 20,000 sq. ft. of gross floor area or 130,680 sq. ft. of land; gross floor area cannot exceed 25% lot</td>
<td>X</td>
</tr>
</tbody>
</table>

### Manufacturing, processing or research

<table>
<thead>
<tr>
<th>Uses</th>
<th>Zoning Districts</th>
</tr>
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<tbody>
<tr>
<td>up to 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
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</tbody>
</table>

### Office park

<table>
<thead>
<tr>
<th>Uses</th>
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</tr>
</thead>
<tbody>
<tr>
<td>up to 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
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</tr>
</tbody>
</table>

### Professional or Business Office

<table>
<thead>
<tr>
<th>Uses</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
<td>X</td>
</tr>
</tbody>
</table>

---

<sup>33</sup> Special Permit from Planning Board required for offices, retail sales, and services related to this use.  
<sup>34</sup> Special Permit from Planning Board required for offices, retail sales, and services related to this use.  
<sup>35</sup> Special Permit from Planning Board required for offices, retail sales, and services related to this use.

Town of Kingston MA Zoning Bylaw  
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### Table of Uses

#### Zoning Districts

<table>
<thead>
<tr>
<th>USES</th>
<th>R-20</th>
<th>R-40</th>
<th>R-80</th>
<th>RM</th>
<th>TC</th>
<th>C</th>
<th>I</th>
<th>C/I Park</th>
<th>3A DD</th>
<th>Cons.</th>
</tr>
</thead>
<tbody>
<tr>
<td>over 10,000 sq. ft. of gross floor area or 130,680 sq. ft. of land</td>
<td>X</td>
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<td>SPPB</td>
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</table>

#### Auto, Truck, Vehicular Service & Repair Shops not Including Body Repairs

<table>
<thead>
<tr>
<th>USES</th>
<th>R-20</th>
<th>R-40</th>
<th>R-80</th>
<th>RM</th>
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<td>X</td>
<td>SPPB</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

#### Public utility buildings or yards, contractor's offices and storage yards, provided that the use is screened from abutting lots or exterior streets by a solid landscaped screen and/or fence at least 5 ft. but not more than 7 ft.

<table>
<thead>
<tr>
<th>USES</th>
<th>R-20</th>
<th>R-40</th>
<th>R-80</th>
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### Table of Uses

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<td>SPPB</td>
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<tr>
<td><strong>Trucking Garages and Terminals</strong></td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>SPPB</td>
<td>X</td>
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</tr>
<tr>
<td><strong>Warehouse and Food Distribution Centers, provided that all bulk sales, outside display and storage occurs to the rear of the principal building</strong></td>
<td></td>
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<td>X</td>
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<td>SPPB</td>
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</tr>
</tbody>
</table>

Town of Kingston MA Zoning Bylaw
November 2019
SECTION 6 OVERLAY DISTRICTS

6.1 INTRODUCTION

6.1.A. OVERLAY DISTRICTS

The Town of Kingston is hereby divided into the following Overlay Districts:

6.2 Flood Plain Overlay District (FPOD))
6.3 Green Communities Wind Turbine Overlay District (GCWTOD)
6.4 Kingston Place Smart Growth Overlay District (KPSGOD)
6.5 Large-scale Ground-mounted Solar Voltaic Installation Overlay District (LGSVIOD)
6.6 Mixed Commerce Overlay District (MCOD)
6.7 Mixed-use Redevelopment Overlay District (MUROD)
6.8 Water Resource Overlay District (WROD)

6.2 FLOOD PLAIN OVERLAY DISTRICT (FPOD)

6.2.A. Purposes

The purposes of the Flood Plain Overlay District are to:

1. protect the public health, safety, and general welfare;
2. protect human life and property from the hazards of periodic flooding;
3. preserve the natural flood control characteristics and the flood storage capacity of the flood plain; and,
4. preserve and maintain the ground water table and water recharge areas within the flood plain.

6.2.B. ESTABLISHMENT

1. The Flood Plain Overlay District is established as an overlay district to all other districts. The Floodplain Overlay District includes all special flood hazard areas within the Town of Kingston designated as Zone A, AE, AO, and VE on the Plymouth County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Kingston are panel numbers: 25023C0218J, 25023C0219J, 25023C0331J, 25023C0332J, 25023C0334J, 25023C0342J, 25023C0353J, 25023C0354J, and 25023C0361J, dated July 17, 2012, and 25023C0238K, 25023C0239K, 25023C0351K, 25023C0352K; dated November 4, 2016. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRMs and further defined by the flood profiles contained in the Plymouth County Flood Insurance Study (FIS) report dated November 4, 2016.

2. These maps and the accompanying FIS are incorporated herein by reference and are on file with the Building Department and the Conservation Commission. All development, including structural and non-structural activities, whether permitted by right or by special permit must
be in compliance with G.L. c. 131, § 40, with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plains, and with the following:

(a) Code of Federal Regulations (CFR) for the National Flood Insurance Program (NFIP) (44 CFR, 60.3);
(b) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (780 CMR);
(c) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (310 CMR 10.00);
(d) Inland Wetlands Restriction, DEP (310 CMR 13.00);
(e) Coastal Wetlands Restriction, DEP (310 CMR 12.00);
(f) Minimum Requirements for the Subsurface Disposal Sanitary Sewage, DEP (310 CMR 15, Title 5)

6.2.C. USES PERMITTED

1. The following uses of low flood damage potential and that cause no obstruction to flood flows shall be allowed if they are permitted in the underlying district.

(a) Agricultural uses such as, but not limited to, farming, grazing, truck farming, and horticulture.
(b) Forestry and nursery uses.
(c) Outdoor recreational uses, including, but not limited to, fishing, boating, and play areas.
(d) Conservation of water, plants, wildlife.
(e) Wildlife management areas, foot, bicycle, and/or horse paths.
(f) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage or sales of crops raised on the premises.

2. Such uses shall not require structures, fill, or storage of materials or equipment.

6.2.D. DEVELOPMENT REGULATIONS

1. Zone A – Within Zone A, where the 100 year flood elevation is not provided on the Flood Insurance Rate Map, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Conservation Commission. If the data is sufficiently detailed and accurate, it shall be relied upon to determine compliance with this Bylaw and the State Building Code.

2. V Zones – Located within the Floodplain Overlay District are areas designated as coastal high hazard areas (V Zones – as designated on FEMA flood insurance maps). Since these areas are extremely hazardous due to high velocity waters from tidal and storm surges, all new construction shall be landward of the reach of the velocity zone and be in accordance with Section 6.2C above.

3. Floodway Data – In A Zones (A, AE, AO) along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
4. Base Flood Elevation Data – Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser within unnumbered A zones.

5. AE Zones – In AE Zones along watercourses within the Town of Kingston that have a regulatory floodway designated on the Plymouth County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

6. Alterations – Man-made alterations are prohibited within VE Zones which would increase potential flood damage.

7. Subdivisions – All subdivision proposals are to be reviewed to assure that: a) proposals minimize flood damage; b) public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

8. Underground Tanks – Placement of underground storage tanks for fuel is prohibited in A Zones and V Zones.

9. New Construction – All new construction within Zones VE must be located landward of the reach of mean high tide.

6.2.E. Notification

1. Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:
   (a) Adjacent Communities
   (b) NFIP State Coordinator
       Massachusetts Department of Conservation and Recreation/Floodplain Management,
       https://www.mass.gov/guides/floodplain-management#nfip-flood-insurance
   (c) NFIP Program Specialist
       FEMA Region I,
       https://www.fema.gov/national-flood-insurance-program/

6.3 GREEN COMMUNITIES WIND TURBINE OVERLAY DISTRICT (GCWTOD)

6.3.A. Purposes

The purposes of Section 6.3 are to provide for the construction and operation of wind facilities and to provide standards for the placement, design, construction, monitoring, modification, and removal of wind facilities that address public safety minimize impacts on scenic, natural and historic resources of the town and provide adequate financial assurance for decommissioning.

The provisions set forth in this Section shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.
SECTION 6 – OVERLAY DISTRICTS

6.3.B. APPLICABILITY

This section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this Section. This Section also pertains to any physical modifications to existing wind facilities that materially alter the type or increases the size of such facilities or other equipment. It does not apply to single stand-alone turbines under 60 kilowatts of rated nameplate capacity.

6.3.C. DEFINITIONS

AS-OF-RIGHT SITING: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to non-discretionary site plan review to determine conformance with local zoning bylaws as well as state and federal law. As-of-right development projects that are consistent with zoning bylaws and with state and federal law cannot be prohibited.

BUILDING COMMISSIONER: the inspector of buildings, building commissioner, or local inspector charged with the enforcement of the state building code.

BUILDING PERMIT: The permit issued in accordance with all applicable requirements of the Massachusetts State Building Code (780 CMR).

DESIGNATED LOCATIONS: The locations are those designated by Town Meeting in accordance with G.L. c. 40A, § 5, where wind energy facilities may be sited as-of right. These locations are shown on a Zoning Map of Kingston, Massachusetts dated December 17, 1993 revised through June 26, 2012. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk. The following Assessor map parcels are included as “Designated Locations”:

082-004-000; 082-003-000; 074-008-000; 075-039-000; 075-002-000; 075-035-000; 075-034-000; 075-036-000; 075-037-000; 075-012-000; 075-010-000; 066-050-000; 075-011-000; 075-011-001; 074-007-000

HEIGHT: The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

MUNICIPAL WIND FACILITY: A project initiated by the local government whose primary purpose is to provide power for municipal uses.

ON-SITE WIND FACILITY: A wind project, which is located at a commercial, industrial, agricultural, or institutional facility that will consume more than 50% of the electricity generated by the project on site.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

SITE PLAN REVIEW AUTHORITY: Refers to the Planning Board which is the Site Plan Review Authority.
SUBSTANTIAL EVIDENCE: Such evidence as a reasonable mind might accept as adequate to support a conclusion.

UTILITY-SCALE WIND FACILITY: A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

WIND FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

WIND MONITORING OR METEOROLOGICAL TOWER: A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

WIND TURBINE: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

ZONING ENFORCEMENT AUTHORITY: The Building Commissioner/Zoning Enforcement Officer.

6.3.D. GENERAL REQUIREMENTS FOR ALL WIND ENERGY FACILITIES

1. Site Plan Review – No wind facility over 60 kilowatts of rated nameplate capacity shall be erected, constructed, installed, or modified as provided in this section without first obtaining a Site Plan Review approval from the Planning Board. No wind energy system shall be erected, constructed, installed or modified as provided in this section without obtaining a building permit following Site Plan Review approval.

2. Wind Monitoring or Meteorological Towers – These towers shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements.

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

4. Proof of Liability Insurance – The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

5. Site Control – At the time of the application the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.
6. Renewable and Alternative Energy Facilities – Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities, are subject to the following Sections of the Bylaw:

(a) 6.3.E General Siting Standards
(b) 6.3.F Design Standards
(c) 6.3.G Safety, Aesthetic, and Environmental Standards
(d) 6.3.H Monitoring and Maintenance
(e) 6.3.I Abandonment and Decommissioning
(f) 6.3.J Term of Approval
(g) 6.3.K Application Process and Requirements
(h) 6.3.L Required Documents
(i) 6.3.L.3 Site Plan
(j) 10.3 Site Plan Review

7. Site Plan Review – Site Plan Review shall be conducted by the Planning Board, pursuant to Section 10.3. and Section 6.3.L.3, Site Plan and subject to the requirements of Section 6.3.E General Siting Standards, 6.3.F Design Standards, 6.3.G. Safety, Aesthetic and Environmental Standards, 6.3.H Monitoring and Maintenance, 6.3.I Abandonment or Decommissioning, 6.3.J Term of Permit, and 6.3.K Application Process. The Site Plan Review shall be an "expedited" application and permitting process under which said facilities may be sited within one year from the date of initial application to the date of final approval by the Planning Board.

6.3.E. General Siting Standards

1. Height – Wind facilities shall be no higher than 400 feet above the current grade of the land, provided that wind facilities may exceed 400 feet if:

(a) the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
(b) the excess height is necessary to prevent financial hardship to the applicant; and
(c) the facility satisfies all other criteria for the granting of a Site Plan Review and a building permit under the provisions of this section.

2. Setbacks – Wind turbines shall be set back a distance equal to 1.5 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and 100 feet from the nearest property line and private or public way.

3. Setback Waiver – The Site Plan Review authority may reduce the minimum setback distance as appropriate based on site-specific considerations, if the project satisfies all other criteria for a Site Plan Review approval and a building permit under the provisions of this section.

6.3.F. Design Standards

1. Color and Finish – The Site Plan Review granting authority shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.
2. Lighting and Signage.

(a) Lighting – Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

(b) Signage – Signs on the wind facility shall comply with the requirements of the Town’s sign regulations, and shall be limited to:

   i. Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
   ii. Educational signs providing information about the facility and the benefits of renewable energy.

(c) Advertising – Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

3. Utility Connections – Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. Appurtenant Structures – All appurtenant structures to such wind facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

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

6.3.G. SAFETY, AESTHETIC, AND ENVIRONMENTAL STANDARDS

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

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

3. Shadow/Flicker – Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant shall prove that this effect does not have significant adverse impacts on neighboring or adjacent uses through either siting or mitigation.
4. Noise – The wind facility and associated equipment shall conform with the provisions of the Department of Environmental Protection’s, Division of Air Quality Noise Regulations (310 CMR 7.10), unless that Department and the Site Plan Review authority agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source:

(a) increases the broadband sound level by more than 10 dB(A) above ambient; or,
(b) produces a “pure tone” condition when an octave band center frequency sound pressure level exceeds the 2 adjacent center frequency sound pressure levels by 3 decibels or more.

5. Noise Measurement – These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards.

6. Site Plan Review – The SPR authority, in consultation with the Department of Environmental Protection, shall determine whether violations shall be measured at the property line or at the nearest inhabited residence.

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

6.3.H. MONITORING AND MAINTENANCE

1. Facility Conditions – The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

2. Modifications – All material modifications to a wind facility made after issuance of the Site Plan Review shall require Site Plan Review approval by the Planning Board.

6.3.I ABANDONMENT OR DECOMMISSIONING

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

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

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review authority may allow the owner to leave landscaping or designated below-grade foundations on the site in order to minimize erosion and disruption to vegetation.

2. Abandonment – Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The Board shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to seek a court order to enter the property and physically remove the facility.

3. Financial Surety – The Planning Board shall require the applicant for utility scale wind facilities to provide a form of surety prior to obtaining a building permit either through escrow account, bond, or otherwise, to cover the cost of removal in the event the town must remove the facility, the amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

6.3.J TERM OF PERMIT

1. Valid Time Period – An approval issued for a wind facility shall be valid for 25 years, unless extended or renewed. The time period may be extended, or the approval renewed by the Site Plan Review Authority upon satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the Site Plan Review approval. Submitting a renewal request shall allow for continued operation of the facility until the Site Plan Review Authority acts. At the end of that period (including extensions and renewals), the wind facility shall be removed as required by this section.

2. Contact Information – The applicant or owner shall maintain a phone number and identify a person public to contact with inquiries and complaints throughout the project life.

6.3.K. APPLICATION PROCESS AND REQUIREMENTS

1. Application Procedures

   (a) General - The application for a wind facility shall be filed in accordance with the rules and regulations of the Site Plan Review Authority concerning Site Plan Review.

   (b) Application - Each application for a Site Plan Review shall be filed by the applicant with the Town Clerk.

6.3.L. REQUIRED DOCUMENTS

1. General - The applicant shall provide with 16 copies of the application. All plans and maps
shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

(a) Name, address, phone number, and signature of the applicant, as well as all co-applicants or property owners, if any.
(b) The name, contact information and signature of any agents representing the applicant.
(c) Documentation of the legal right to use the wind facility site, including the requirements set forth in Section 6.3.D.5.

2. Property Description – The applicant shall provide a description of the property which shall include:

(a) Location Map – A copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000.
(b) Information – The map shall show the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however, a copy of a zoning map with the parcel identified is suitable.

3. Site Plan – A one inch equals 100 feet site plan of the proposed wind facility site, with contour intervals of no more than 10 feet, shall be submitted showing the following:

(a) property lines for the site parcel and adjacent parcels within 300 feet;
(b) outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on the site parcel and all adjacent parcels within 500 feet. Include distances from the wind facility to each building shown;
(c) location of all roads, public and private on the site parcel and adjacent parcels within 300 feet, and proposed roads or driveways, either temporary or permanent;
(d) existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within 300 feet;
(e) location and design of the facility, including turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.;
(f) location of priority points referenced below in Section 6.3.I.4 below;
(g) wetlands, wildlife, habitat and other natural features;
(h) proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation, or structures;
(i) tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
(j) tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
(k) one or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
(l) documentation of the wind energy facility’s manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
(m) name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;
(n) the name, contact information and signature of agents representing the applicant; and,
(o) a maintenance plan for the wind energy facility;
4. Visualizations – The Site Plan Review Authority shall select between 3 and 6 sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:

   (a) View images shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind 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.).

5. Landscape Plan – (Utility-Scale Wind Facilities Only) A plan indicating all proposed changes to the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation, and structures. Lighting shall be designed to minimize glare on abutting properties and, except as required by the FAA, be directed downward with full cut-off fixtures to reduce light pollution.

6. Operation & Maintenance Plan – The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

7. Compliance Documents – If required under previous sections of this Bylaw, the applicant will provide with the application:

   (a) a description of financial surety that satisfies Section 6.3.I.3;
   (b) proof of liability insurance that satisfies Section 6.3.D.4;
   (c) certification of height approval from the FAA; and,
   (d) a statement that satisfies Section 6.2.G.4, listing existing and maximum projected noise levels from the wind facility.

8. Independent Consultants (Utility-Scale Wind Facilities Only) – Upon submission of an application for a Site Plan Review, the Site Plan Review Authority will be authorized to hire outside consultants, pursuant to G.L. c 44, § 53G . As necessary, the applicant may be required to pay the consultant's costs.

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6.4 KINGS顿 PLACE SMART GROWTH OVERLAY DISTRICT (KPSGOD)

6.4.A. PURPOSES

The purposes of the Smart Growth District are:

1. To provide an opportunity for residential, commercial, and mixed-use development within a distinctive, attractive, and livable environment.
2. To promote low impact, sustainable development that is pedestrian friendly, and to integrate the principles of smart growth, new urbanism, and green infrastructure and building through conformance with the most recent version of the "LEED for Neighborhood Development..."
Rating System”, such that the Smart Growth District as a whole is eligible for LEED-ND Certification by the U.S. Green Building Council.

3. To ensure high quality site planning, architecture, and landscape design that enhances the distinct visual character and identity of Kingston and provides an environment with safety, convenience and amenity.

4. To provide for a diversified housing stock at a variety of costs within walking distance of the Kingston commuter rail station, including affordable housing, and in housing types that meet the needs of the Town’s population.

5. To generate positive tax revenue, and to benefit from the financial incentives provided by G.L. c. 40R, while providing the opportunity for new business growth and additional local jobs.

6.4.B. SCOPE AND AUTHORITY

1. Establishment – The Smart Growth District is established pursuant to the authority of G.L. c.40R and 760 CMR 59.00 and shall be deemed to overlay the parcels as shown on the Zoning Map, as amended.

2. Site Plan Review – At the option of the owner, development of land within the Smart Growth District may be undertaken by means of a Site Plan Review pursuant to the zoning controls set forth in Section 6.4, or by complying with all applicable zoning controls set forth in the Zoning Bylaw. At such time as a building permit is issued for any Development Project for which Site Plan Review has been granted, all of the land shown on the Site Plan shall be developed solely pursuant to Section 6.4, shall not be developed pursuant to the underlying Zoning District, and shall be deemed exempt from the standards and procedures of the underlying Zoning District.

6.4.C. ESTABLISHMENT AND DELINEATION OF SMART GROWTH DISTRICT AND SUBDISTRICTS

1. Subdistricts – Within the Smart Growth District, there are four Subdistricts identified as Single-Family SG Subdistrict, Mixed-Use Residential-Commercial SG Subdistrict, Mixed-Use Live-Work SG Subdistrict and Conservation/Recreation SG Subdistrict. The boundaries of the Smart Growth District and the Subdistricts are delineated on a sheet labeled “1021 Kingston’s Place Smart Growth District and Subdistricts” and are also delineated on a marked copy of the Official Zoning Map of the Town of Kingston on file in the office of the Town Clerk.

2. Extension into Subdistricts – The uses permitted and the bulk and dimensional controls applicable in a Subdistrict may be extended into the adjacent Subdistrict for a distance of 50 feet as long as the limit of the extension is reflected on the site plan for a proposed development for which Site Plan Review is required. Unless the provision of Section 6.4.H.4, shall be applicable, any dwelling unit or portion thereof located within this extension shall not be included in the calculation of the maximum number of dwelling units allowed as specified in Section 6.4.H.3, in such adjacent Subdistrict but shall be included in the calculation of the Subdistrict to which such extension is made.
6.4.D. Definitions

Affordable Unit – An Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household.

Affordable Housing Restriction – A deed restriction of an Affordable Homeownership Unit meeting statutory requirements in G.L. c. 184, § 31 and the requirements of Section 6.4.M.

Affordable Rental Unit – A dwelling unit required to be rented to an Eligible Household in accordance with the requirements of Section 6.4.M.

Affordable Homeownership Unit – A dwelling unit required to be sold to an Eligible Household in accordance with the requirements of Section 6.4.M.

Alley – A roadway or shared driveway on which no primary buildings have front doors and the primary purpose of which is to provide immediate access to garages and private parking spaces serving such buildings.

Applicant – A landowner or other petitioner that files a Site Plan for a Development Project subject to the provisions of the Smart Growth District.

Approving Authority – The Planning Board acting as the authority designated to review projects and issue approvals under Section 6.4.

As-of-right Development – A Development Project allowable under Section 6.4, without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement shall be considered an As-of-right Development.

Basement – The lowest floor level of a building which is either fully or partially below grade, whether or not fully enclosed.

Building Envelope – In connection with the development of a Single-Family Dwelling Unit, the area within an individual lot on which a Single-Family Dwelling Unit is required under the Design Standards to be constructed; provided the area is part of a Development Lot shown on a Site Plan.

Conservation and Recreation Use – Any woodland, grassland, wetland, agricultural, horticultural, or active or passive recreational use of land or the use of land for the construction and use of ponds, storm water management facilities, or a Parkway.

DHCD – The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

Design Standards – The document entitled “Kingston Smart Growth District Design Standards and Procedures” dated March 19, 2007 as amended. These Design Standards shall be applicable to all Development Projects within the Smart Growth District that are subject to Site Plan Review.

Development Lot – One or more lots which are designated as a Development Lot on a Site Plan for a development proposed within the Smart Growth District and for which Site Plan Review is
required. The lots comprising a Development Lot need not be in the same ownership. Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous, and shall be considered as one lot for the purpose of calculating parking requirements, minimum open space, and dwelling units per acre. Any development undertaken on a Development Lot is subject to the Design Standards established under Section 6.4.

**DEVELOPMENT PROJECT** – A residential, commercial or Mixed-Use Development undertaken under this Section 6.4. A Development Project shall be identified on the Site Plan which is submitted to the Planning Board for Site Plan Review.

**DWELLING UNIT** – One or more rooms with cooking, living, sanitary, and sleeping facilities arranged for the use of one or more persons living together as a single housekeeping unit inclusive of, if applicable, an In-Law Apartment. Dwelling Units are specifically defined as:

(a) **SINGLE-FAMILY DETACHED DWELLING UNIT** – A detached dwelling unit, other than a mobile home, designed for occupancy by a single family and which may or may not be in single ownership.

(b) **SINGLE-FAMILY ATTACHED DWELLING UNIT** – An attached residential dwelling unit, designed for occupancy by one family only and on a separate lot where the use of the lot is within the exclusive control of the owner thereof, subject to customary homeowner association controls on architectural design, landscaping, and maintenance. A Single-Family Attached Dwelling Unit that satisfies this definition shall not be considered a Multi-Family Dwelling Unit.

(c) **TWO- AND THREE-FAMILY DWELLING UNIT** – A residential building containing two or three dwelling units designed for occupancy by the same number of families as the number of dwelling units and where the individual dwelling units are not located on separate lots.

(d) **MULTI-FAMILY DWELLING UNIT** – A residential building containing four or more dwelling units designed for occupancy by the same number of families as the number of dwelling units where the individual dwelling units are not located on separate lots.

**ELIGIBLE HOUSEHOLD** – An individual or household whose annual income is below 80% 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.

**FAMILY** – One or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal living arrangements.

**FRONTAGE** – The linear extent of a lot measured in a continuous line along the street or from the intersection of one side lot line to the intersection of the other side lot line of the same lot. In case of a lot which has more than one lot line on a street or way, the applicant for a building permit may designate which of the lot lines shall serve as the basis for measurement of the lot’s frontage.

**FRONT YARD** – The distance between a building and the curb-line of the street or way on which the building has frontage. The curb-line shall be depicted on the Site Plan for such building.

**GROSS LEASABLE AREA** – The area of a building exclusive of hallways, mechanical rooms, and other
space not exclusively occupied by a single tenant or occupant.

HEIGHT – The distance between the average finished grade adjacent to the building (exclusive of basements) and the ceiling of the upper-most heated space in a building with flat roofs and in buildings with pitched roofs, at the point at which such ceiling intersects with the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports; roof decks; ventilation, air conditioning, and similar building service equipment; chimneys; railings; skylights; and other similar features of buildings which are in no way designed or used for living purposes. It shall also not apply to the portion of the pitched roof above the intersection of the ceiling of the upper-most heated space and the exterior of the building. A loft that has floor area of less than 25% of the first floor area of the building in which it is located shall not be considered as heated space for purposes of determining the height of the building.

HOME OFFICE – The use of a room or rooms in a Dwelling Unit as an office or studio by a resident provided not more than one other person is regularly employed therein in connection with such use and that not more than 25% of the gross floor area, not in excess of 600 square feet, is regularly devoted to a Home office.

HOUSEHOLD INCOME, MEDIAN – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

INFRASTRUCTURE LETTERS - The letters issued on behalf of the Town in fulfillment of G.L. c. 40R, § 6(a)(11) and 760 CMR 59.04(1)(h) identifying infrastructure improvements to be made incident to the construction of one or more Development Projects in the Smart Growth District.

IN-LAW APARTMENT - A separate dwelling unit located within a single-family detached dwelling or accessory building that is subordinate in size to and an accessory use to the single-family detached dwelling. The size of the in-law apartment shall not be less than 500 square feet plus 100 square feet for every bedroom more than 1, but not more than 30% of the normally habitable gross floor area of the principal residential structure. Either the in-law apartment or the principal residence shall be occupied by the owner of the lot on which the in-law apartment is located except for temporary absences.

LIVE/WORK USE – The use of a building or series of buildings devoted to commercial and residential use where the first floor of the building is primarily devoted to commercial use and the upper floors are primarily devoted to residential use.

LOT – A parcel of land described by metes and bounds on a plan or deed duly recorded in the Plymouth County Registry of Deeds.

MIXED-USE DEVELOPMENT PROJECT – A Development Project containing a residential principal use and one or more commercial or institutional principal uses.

OFFICE – A place in which functions such as directing, consulting, record keeping, brokerage, clerical work, and sales, of a firm, without the presence of merchandise, may be located. A place which provides medical or dental services on an out-of-pocket basis shall also be included in this definition.
PARKWAY – The principal collector road (within the Smart Growth District) designed as a landscaped parkway connecting the open space elements in the Smart Growth District and providing access from public ways to the Development Projects within the Smart Growth District and the adjacent properties and identified as such on a Site Plan.

NOISE BUFFER – The area of a Development Project which is devoted principally to the construction and maintenance of noise attenuation structures and equipment for the benefit of residential structures located adjacent to railroad lines or other facilities.

SIDE YARD – The distance between a building and the lot line which is most nearly perpendicular to the lot line on which the frontage of the lot is measured. In the case of a corner lot, the applicant for a building permit may designate which of the lot lines is to serve as the basis for the measurement of the side yard.

REAR YARD – The distance between a building and the lot line which is most nearly parallel to the lot line on which the frontage of the lot is measured. Where the lot has lot lines on more than one street or way and is not a corner lot, the applicant for a building permit may designate which lot lines is to serve as the basis for measurement of the rear yard.

SHARED PARKING FACILITIES – Off-street parking facilities designed and intended to serve more than a single use as shown on a Site Plan.

SINGLE-FAMILY UNITS – Single-Family Detached Dwelling Units and Single-Family Attached Dwelling Units.

SITE PLAN – A plan depicting a proposed Development Project for all or a portion of the Smart Growth District and which is submitted to the Planning Board for its review and approval in accordance with the provisions of Section 6.4.M of this Bylaw.

SITE PLAN REVIEW – The Planning Board’s authorization for a proposed Development Project based on a finding of compliance with Section 6.4 and the Design Standards.

SITE PLAN REVIEW PROCEDURE – The review procedure required by Section 6.4 and administered by the Planning Board as the Approving Authority.

SMART GROWTH DISTRICT – An overlay zoning district adopted pursuant to G.L. c. 40R, in accordance with the procedures for zoning adoption and amendment of G.L. c. 40A § 5 and approved by DHCD G.L. c. 40R and 760 CMR 59.00.

SUBDISTRICT – A specific and defined area of land within the Smart Growth District that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements other specific and defined areas within the Smart Growth District. The boundaries and the names of the Subdistricts are referred to in Section 6.4.C.1.

UNDERLYING ZONING – The zoning requirements adopted by Town Meeting that are otherwise applicable to the geographic area in which the Smart Growth District is located, as those requirements may be amended from time to time.

UNDULY RESTRICT – A provision of a Smart Growth District or a Design Standard that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development.
UNRESTRICTED UNIT – A Dwelling Unit not restricted as to rent, price, or eligibility of occupants.

USE, ACCESSORY – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site, or structure to a use not otherwise permitted in the Smart Growth District. Accessory uses are permitted or prohibited in the Smart Growth District to the same extent as if those uses were Principal Uses.

USE, PRINCIPAL – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained. More than one principal use is permitted as-of-right on a lot or within a Development Project in a Mixed-Use Residential-Commercial SG Subdistrict and a Mixed-Use Live-Work SG Subdistrict.

YARD SETBACK – The distance between a principal building and the principal buildings located immediately adjacent to the principal building whether or not on the same lot. The Yard Setback shall be depicted on the Site Plan for the building.

6.4.E. PERMITTED USES

1. Uses – The following as-of-right uses shall be permitted in the Subdistricts listed in the Smart Growth District Table. All uses require Site Plan Review approval pursuant Section 6.4.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservation and Recreation Use</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Live-Work Use</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Multi-family Dwelling Unit</td>
<td>Y²</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Municipal Use</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Office Use</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Retail, Restaurant, and Personal Service Use</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Single-family Attached Dwelling Unit</td>
<td>Y</td>
<td>Y¹</td>
<td>Y¹</td>
<td>N</td>
</tr>
<tr>
<td>Single-family Detached Dwelling Unit</td>
<td>Y</td>
<td>Y¹</td>
<td>Y¹</td>
<td>N</td>
</tr>
<tr>
<td>Two- and Three-family Dwelling Unit</td>
<td>Y²</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

¹ Subject to the limitations of Section 6.4.H.4. ² Subject to the limitations of Section 6.4.E.2.

Key: Y = Yes, permitted  N = No, not permitted

2. Multi-Family Dwelling Units as well as Two- and Three-Family Dwelling Units – These Units may be located in the Single Family SG Subdistrict adjacent to either a Mixed-use Residential-Commercial SG Subdistrict or a Mixed-use Live-Work SG Subdistrict at the density permitted in Mixed-use Subdistricts in accordance with the Table in Section 6.4.H.3, provided that the number of Multi-Family Dwelling Units and Two- and Three-Family Dwelling Units that could
be constructed in the Mixed-use SG Subdistricts shall be reduced by the number of Multi-
Family Dwelling Units and Two- and Three-Family Dwelling Units so constructed in the Single
Family SG Subdistrict.

3. Number of Units – In no event shall the number of Single Family Dwelling Units that are
permitted to be constructed in the Single Family SG Subdistricts be reduced by the
construction of such Multi-family Dwelling Units and Two- and Three-Family Dwelling Units
within the Single Family SG Subdistricts. No more than 60 Multi-Family Dwelling Units and
Two- and Three-Family Dwelling Units, in the aggregate, shall be located in the Single Family
SG Subdistrict.

4. Accessory Units – In addition to the foregoing principal uses, accessory uses shall be
permitted in each of the Subdistricts. As accessory to a residential use, the following specific
uses shall also be permitted:

5. Home Office – Home Office use shall be permitted as of the right as an accessory use.

6. In-law Apartment – An In-law Apartment as an accessory use shall be permitted only by
special permit issued by the Planning Board. An In-law apartment is not treated as a
Dwelling Unit in the Smart Growth District.

6.4.F. PROHIBITED OR RESTRICTED USES OR ACTIVITIES IN A SMART GROWTH DISTRICT

1. Unregistered Vehicle; Storage – No more than one unregistered vehicle shall be permitted
within a lot unless located within a structure or screened from any adjacent residence or
public way by a wall, fence, or densely planted trees or shrubs at least 3 feet in height or be
equivalently obscured by natural vegetation.

2. Unregistered Vehicle; Front Yard – Any unregistered vehicle in the front yard.

3. Water Withdrawal – The withdrawal of water for transport and sale outside the Town of
Kingston.

4. Underlying District Uses – Any use not listed in Section 6.4 is expressly prohibited; provided,
however, that uses permitted in the underlying zoning district are permitted as long as they
are not exercised in connection with a Development Project.

5. Standards – All proposed uses of buildings, lots, or premises within the Smart Growth District
shall conform to the standards contained in Sections 6.4.F.5 through 6.4.G.6.

6. Nuisance – The applicant, at their own expense, shall furnish evidence sufficient to satisfy the
Zoning Enforcement Officer that the proposed use of the building or premises will not
produce any nuisances beyond the lot lines as measured by the performance standards listed
in Sections 6.4.F.7 through 6.4.G.6 or as existing in comparable operations allowed in the
Smart Growth District. Any nuisance produced in excess of the standards permitted in
Sections 6.4.F.7 through 6.4.G.6 or any other nuisance found after review by the Zoning
Enforcement Officer in the course of his or her normal enforcement procedure to be excessive
shall be reduced to acceptable standards or discontinued.
7. Air Pollutants – Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the Regulations 310 CMR 6.00 – 8.00 of the Department of Environmental Protection, Commonwealth of Massachusetts.

8. Noise

(a) No noise shall be in excess of 60 decibels at any lot line opposite or abutting a Residential 80, Residential 40, Residential 20, or Residential M District nor in excess of 90 decibels at any other line.

(b) In the Smart Growth District, noise shall not exceed 60 decibels between the hours of 8:00 P.M. and 7:00 A.M. At all other times, noise shall not exceed 60 decibels for more than 20 minutes in each hour.

(c) Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or high frequency.

9. Heat, Glare, and Vibration – No heat, glare or vibration shall be discernible without instruments from the outside of any structure.

6.4.G. CONDITIONAL USES OR ACTIVITIES IN THE SMART GROWTH DISTRICT

1. Wind Energy Systems – Wind energy conversion systems, machinery and equipment shall comply with the following provisions:

(a) The system shall not cause interference with radio and/or television broadcasting or reception and shall comply with the provisions of 47 CFR Part 15 (Federal Communications Commission) as it exists, or as it may be amended.

(b) The base of a windmill shall be set back from all property lines and principal buildings at least the setback distance shown in the Massachusetts Wind Energy Model Zoning Bylaw.

(c) Waste Disposal, Water Supply and Water Quality – The following conditions shall be met:

i. Regulations of the Department of Public Health shall be met and when required by the Zoning Enforcement Officer, approval shall be indicated on the application for a Building Permit.

ii. In no case shall discharge cause the waters of the receiving body to violate the requirements of the Massachusetts Surface Water Quality Standards 310 CMR 4.

iii. Materials used on the exterior or cleanup of structures, vehicles, or any equipment shall be disposed of in accordance with the regulations of the Board of Health.

2. Storage – All materials, supplies and equipment shall be stored in accordance with the Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.


(a) No use shall be allowed which would create a clear or unlawful hazard through emission of dangerous elements into the air, any water body, or the ground; through vehicular egress at points of constricted visibility; through use of storage of toxic, hazardous,
inflammable, radioactive, or explosive materials without evidence of compliance with all applicable regulations; or through lack of security measures to prevent exposure to potentially hazardous structural or site conditions.

(b) All hazardous materials used, created, stored, processed, disposed of by processing, diluting, burying, or containment, leaching or any other manner, or transported (including piping) in the Town shall be used, stored, or transported in accordance with all applicable Federal, State and Local regulations.

(c) A notice for use, creation, storage, processing, disposal and transport shall be filed with the Board of Selectmen, the Fire Department, the Board of Health, and the Water Board on forms as they shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, the routes of transport, carrier and conveyance, if any.

4. Erosion Control

(a) Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped.

(b) No use shall be allowed if it will leave the earth exposed for greater than 14 days, unless erosion control measures are employed.

(c) No use shall be allowed which will damage or harm adjoining properties, waterways, or public utilities through uncontrolled erosion and sedimentation.

5. Electrical Interference – No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

6. Junk, Trash & Debris – Except as required for municipal waste pick-up and removal, junk, trash, or debris shall be stored so as not to be visible from adjacent properties or any street.

6.4.H. DIMENSIONAL AND OTHER REQUIREMENTS

1. Number of Buildings on a Lot – In the Smart Growth District, more than one principal building may be erected on a lot.

2. Buildings and Development Lots – Lots within a Smart Growth District shall be subject to the bulk and dimensional requirements in the Table of Dimensional Requirements below, based on the use of the Development Lot. In the case of the Mixed-use of a Development Lot, the setback requirements shall be applied based on the use of the specific building in question.

<table>
<thead>
<tr>
<th>Smart Growth District - Dimensional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area in Square Feet for All Uses other than Single-Family Dwelling Units</td>
</tr>
<tr>
<td>Frontage</td>
</tr>
</tbody>
</table>

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### Smart Growth District - Dimensional Requirements

<table>
<thead>
<tr>
<th></th>
<th>Single-Family SG Subdistrict</th>
<th>Mixed-Use Residential-Commercial SG Subdistrict</th>
<th>Live-Work SG Subdistrict</th>
<th>Conservation, Recreation SG Subdistrict</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>N/A</td>
<td>10 linear ft</td>
<td>10 linear ft</td>
<td>N/A</td>
</tr>
<tr>
<td>Side Yard</td>
<td>N/A</td>
<td>20 linear ft</td>
<td>20 linear ft</td>
<td>N/A</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>N/A</td>
<td>15 linear ft</td>
<td>15 linear ft</td>
<td>N/A</td>
</tr>
<tr>
<td>Height</td>
<td>35 ft</td>
<td>50 ft</td>
<td>50 ft</td>
<td>N/A</td>
</tr>
</tbody>
</table>

3 Not applicable to Single Family Dwellings Units. The provisions of Section 6.4.K shall be applicable in lieu thereof.

4 For Single-Family Dwelling Units, each unit must be located within a Development Lot and shall satisfy the criteria governing Single Family Dwelling Units set forth in Section 6.4.K. Buildings permitted to be located in a Single-Family Smart Growth Subdistrict under Sections 6.4.E.2 and 6.4.E.3. shall be subject to the dimensional requirements of a Mixed-Use Residential-Commercial Subdistrict.

3. Maximum Residential Development – The aggregate number of dwelling units that may be constructed in the Smart Growth District is 730 units and is calculated for each of the Subdistricts as follows:

### Smart Growth District – Residential Development Density

<table>
<thead>
<tr>
<th>Subdistrict</th>
<th>Single-Family SG Subdistrict</th>
<th>Mixed-Use Residential-Commercial SG Subdistrict</th>
<th>Mixed-Use Live-Work SG Subdistrict</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Residential Use</td>
<td>Single-family⁶</td>
<td>Multi-family⁸</td>
<td>Multi-family⁸</td>
</tr>
<tr>
<td>Units Per Acre⁵</td>
<td>8</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>Number of Units</td>
<td>260⁶</td>
<td>437⁶</td>
<td>33⁶</td>
</tr>
</tbody>
</table>

⁵This standard shall be applied to the Subdistrict as a whole and not to individual Development Projects or portions thereof.

⁶To the extent land within the Single-Family SG Subdistrict may not be developed at the density provided in this Table due to site or other development constraints recognized under G.L. c. 40R, the number of Single-family Units (but not in excess 60) that cannot, as a result thereof, be constructed may instead be constructed as Multi-family Units either in the Mixed-use Residential-Commercial SG Subdistrict, the Mixed-use Live-work SG Subdistrict or the portions of the Single-family SG Subdistrict adjacent to the Mixed-use Residential-Commercial SG Subdistrict or the Mixed-use Live-work SG Subdistrict.

⁷Two- or Three-Family Dwelling Units may be constructed in the Mixed-use Residential-Commercial SG Subdistrict or the Mixed-use Live-work SG Subdistrict, with a maximum density of 12 units per acre.

⁸Single-family dwelling use is also permitted but at no greater density than 8 units per acre and is subject to the limitations set forth in Section 6.4.H.4.

4. Single Family Dwelling Units in the Mixed-use Subdistricts – To the extent Single Family Dwelling Units are constructed in the Single-Family SG Subdistrict at lesser densities than are permitted therein, Single-Family Dwelling Units, to the extent of such shortfall, may be constructed on the balance of a Mixed-use Residential-Commercial SG District and the Mixed-use Live-work SG Subdistrict provided the following requirements are satisfied:
(a) No building permit shall be issued for the construction of any Single-Family Dwelling Units in the Mixed-use Residential SG Subdistrict or the Mixed-use Live-work SG Subdistrict unless there shall have been filed with the Building Commissioner a site plan depicting the location of the Single-Family Dwelling Units proposed to be constructed, as applicable, in the Mixed-use Residential-Commercial SG Subdistrict or the Mixed-use Live-Work SG Subdistrict.

(b) A certificate shall be filed by the owner of the portion of a Single-Family SG Subdistrict confirming the owner's election not to construct the number of Single-Family Dwelling Units to the extent proposed on the site plan in the Single-Family SG Subdistrict. Once this election is made, the Single-Family Dwelling Units may only be constructed in Mixed-use Residential-Commercial Subdistrict or Mixed-use Live-work SG Subdistrict and shall not be constructed in the Single-Family SG Subdistrict.

(c) The number of Multi-family Dwelling Units that are permitted to be constructed in the Mixed-use SG Subdistricts shall not be reduced by the construction of Single Family Dwelling Units in the Mixed-use SG Subdistrict.

5. Total allowable non-residential uses – No single retail use in excess of 25,000 gross square feet shall be permitted in a Mixed-use Development Project. Total allowable retail development permitted shall not exceed 50,000 gross square feet. Total non-residential uses within the Smart Growth District, including retail, restaurant, office, and institutional uses, shall not exceed a total of 300,000 gross square feet.

6.4.I. REQUIRED PARKING

1. Parking Requirements – Parking shall be provided in order to meet or exceed the following minimum requirements:

<table>
<thead>
<tr>
<th>Smart Growth District – Parking Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Use</strong></td>
</tr>
<tr>
<td>Medical or Dental Office or Clinic</td>
</tr>
<tr>
<td>Office, Professional, Business, or Public Use</td>
</tr>
<tr>
<td>Residential Use</td>
</tr>
<tr>
<td>Restaurant or Place of Assembly</td>
</tr>
<tr>
<td>Retail Business, Commercial or Personal Service Establishment</td>
</tr>
</tbody>
</table>

2. Provision of Parking – Parking shall be provided in either off-street parking facilities or in marked spaces along traveled ways as may be provided in the Design Standards.

3. Parking Standards Modification – The Planning Board may grant a Site Plan Review making modifications in the parking standards or may prescribe safeguards and conditions as the Board shall determine appropriate, provided that it finds that it is impractical to meet the parking standards and that modifications are appropriate by reason of the proposed use and

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will not result in or worsen parking or traffic problems in the District. The Board may impose conditions on use or occupancy appropriate to the modifications.

4. Use of Shared Parking Facilities – For purposes of determining parking compliance, parking located in Shared Parking Facilities may be counted as serving more than one use as long as the Planning Board finds as part of Site Plan Review for a Mixed-used Development Project that the uses will produce different parking demands that will be compatible with joint use of the parking facilities in question.

The Shared Parking Facilities shall receive a 25% credit from the required parking calculated as if the Development Project’s parking was to be provided separately. Shared Parking spaces in the lots shall be within 400 feet of the principal buildings served.

6.4.J. DESIGN STANDARDS

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Kingston in adopting Smart Growth Zoning, the Planning Board shall adopt the Design Standards, approved by DHCD and dated March 19, 2007, relative to the issuance of a Site Plan Review approval for Development Projects within the Smart Growth District and shall file a copy with the Town Clerk. In addition to the standards set forth in this Bylaw the physical character of Development Projects within the Smart Growth District shall comply with such Design Standards.

6.4.K. BUILDING ENVELOPES, LOT DESIGNATION, AND YARD SETBACKS FOR SINGLE-FAMILY DWELLING UNITS

1. Building Envelopes and Lot Dimensions – Each site plan for a Development Project shall identify one or more Development Lots, the Building Envelopes in which Single-Family Dwelling Units are anticipated to be located and, at the option of the applicant, a lot plan which lays out the anticipated subdivision of each of the Development Lots into individual lots on which Single-Family Dwelling Units are to be constructed.

The individual lots for the Single-Family Dwelling Units shall be no less than 150% of the Building Envelope in total area and shall be configured in accordance with the Design Standards. The dimensions shown for the individual lots, once the Approving Authority has granted its approval of the site plan, shall be treated as the dimensions of the lots as required in the Smart Growth Zoning District for purposes of the establishment of the lots under the Subdivision Control Law.

2. Yard Setbacks – Yard setbacks for Single-Family Dwelling Units located in a Development Project shall conform to the Yard Setbacks shown between the Building Envelopes on the Site Plan approved by the Planning Board. In no event shall the Yard Setbacks between the sides of buildings be less than 12 feet nor less than 20 feet in the case of rear yards of buildings, provided that steps and chimneys may be constructed within the Yard Setbacks as well as garages and other accessory structures.

6.4.L. OPEN SPACES AND RECREATIONAL AREAS

1. Common Open Space and Facilities – The overall site design shall include a common open
space and facilities system as required by the Design Standards.

2. Ownership and Maintenance – The plans and documentation submitted to the Planning Board shall include a description of proposed ownership and maintenance of all common open space or facilities.

3. Plans – The plans and any necessary supporting documents submitted with an application for Site Plan Review within the Smart Growth District shall show the general location, size, character, and general area within which common open space or facilities will be located.

6.4.M. Affordable Housing

1. Number of Affordable Units – Twenty percent of all dwelling units constructed in a Development Project shall be Affordable Units. Twenty-five percent of all rental dwelling units in a Development Project shall be Affordable Units. However, for Development Projects in which all of the dwelling units are limited to occupancy by elderly persons and/or by persons with disabilities, 25% of the dwelling units shall be Affordable Units, whether the dwelling units are rental or ownership units.

2. Fractional Units – When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.

3. Affordable Units – Affordable Units shall comply with the following requirements:

(a) Rent Payment – The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed 30% 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 DHCD shall apply.

(b) Housing Payment – 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% 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.

(c) Eligible Households – Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4. Design and Construction

(a) Design – Affordable Units must be dispersed throughout a Development Project and be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer’s rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. Affordable Units shall be finished housing units.

(b) Timing – All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. In Development Projects that are constructed in phases, Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.
5. Unit Mix

(a) Bedroom Proportion – The total number of bedrooms in the Affordable Units shall, so far as practicable, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

(b) One Affordable Unit Bedroom Number – If only one Affordable Unit is required and the other units in the Development Project have various numbers of bedrooms, the Planning Board may select the number of bedrooms for that unit. If Affordable Units cannot mathematically be exactly proportioned in accordance with the Unrestricted Units, the unit mix shall be determined by the Planning Board.

6. Affordable Housing Restriction – Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Plymouth County Registry of Deeds or Land Court Registry District of Plymouth County. The Affordable Housing Restriction shall provide for the implementation of the requirements of Section 6.4 of the Zoning Bylaw. All Affordable Housing Restrictions must include, at minimum, the following:

(a) description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied;

(b) 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. The 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;

(c) the term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than 30 years;

(d) the name and address of an administering agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;

(e) reference to a housing marketing and resident selection plan, to which the Affordable Unit 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 shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for the unit shall be given to a household of the appropriate size;

(f) 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;

(g) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;

(h) a requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the administering agency;

(i) provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;

(j) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the Town of Kingston, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
(k) provisions 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;

(l) 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 provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

(m) a requirement that residents in Affordable Units provide such information as the administering agency may reasonably request in order to ensure affordability; and,

(n) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

7. Administrating Agency – An administering agency for Affordable Units, which may be the Kingston Housing Authority or other qualified housing entity shall be designated by the Kingston Board of Selectmen and shall ensure the following:

(a) prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

(b) income eligibility of households applying for Affordable Units is properly and reliably determined;

(c) the housing marketing and resident selection plan conforms to all requirements and is properly administered;

(d) 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,

(e) affordable Housing Restrictions meeting the requirements of this section are recorded in the Plymouth County Registry of Deeds or Land Court Registry District of Plymouth County.

8. Payments – The housing marketing and selection plan may make provision for payment by the owner 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. Payments shall not exceed ½ % of the amount of rents of Affordable Rental Units (payable annually) or 1 % of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale).

9. Administrative Duties – In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

6.4.N. Administration.

1. Site Plan Review – The Planning Board shall be the Approving Authority for Site Plan Review in the Smart Growth District and shall adopt and file with the Town Clerk administrative rules
relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto shall be approved by the Department of Housing and Community Development.

2. Pre-application Review – The applicant is encouraged to participate in a pre-application review at a regular meeting of the Planning Board. The purpose of the pre-application review is to minimize the applicant’s cost of engineering and other technical experts, and to obtain the advice and direction of the Planning Board prior to filing the application. At the pre-application review the applicant shall outline the proposal and seek preliminary feedback from the Planning Board, other municipal review entities, and members of the public.

3. Site Visit – The applicant is also encouraged to request a site visit by the Planning Board and/or its designee in order to facilitate pre-application review.

4. Application Procedures

(a) Filing – The applicant shall file an original of the application with the Town Clerk for certification of the date and time of filing. The filing shall include any required forms provided by the Planning Board. A copy of the application including the date and time of filing certified by the Town Clerk as well as the required number of copies of the application shall be filed forthwith by the applicant with the Planning Board and Building Inspector. As part of any application for Site Plan Review for a Development Project within the Smart Growth District submitted under Section 6.4.N the Applicant must submit the following documents to the Planning Board and the Administering Agency:

i. evidence that the Development Project plans demonstrate compliance with the requirements of Section 6.4.M.4;
ii. a form of Affordable Housing Restriction that satisfies the requirements of Section 6.4.M.6; and,
iii. evidence that the Development Project complies with the cost and eligibility requirements of Section 6.4.M.3.

(b) Review Fees – The applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Planning Board. The fees shall be held by the Town of Kingston in an interest-bearing escrow account and shall be used only for expenses associated with the use of outside consultants employed by the Planning Board in reviewing the Site Plan Review application. Any surplus funds remaining after the completion of the review, including any interest accrued, shall be returned to the applicant forthwith;

(c) Application Distribution – Upon receipt by the Planning Board, applications shall be distributed to the Fire Chief, the Police Chief, Board of Health, Conservation Commission, Open Space Committee, the Board of Selectmen, and the Boards of Water Commissioners and Sewer Commissioners. Any reports from these parties shall be submitted to the Planning Board within 60 days of filing of the application; and,

(d) Completeness of application – Within 30 days of filing of an application with the Planning Board, the Planning Board or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the applicant certifying the completeness of the application. The Board or its designee shall forward to the
applicant, with its report, copies of all recommendations received to date from other boards, commissions, or departments.

5. Public Hearing – The Board shall hold a public hearing and review all applications according to the procedure specified in G.L. c. 40R § 11 and 760 CMR 59.04(1)(f).

6. Site Plan Review Decision

(a) The Planning Board shall make a decision on the Site Plan application and shall file said decision with the Town Clerk, within 120 days of the date the application was received by the Town Clerk. The time limit for public hearings and taking of action by the Planning Board may be extended by written agreement between the applicant and the Board. A copy of such agreement shall be filed with the Town Clerk.

(b) Failure of the Planning Board to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application.

(c) An applicant who seeks approval because of the Planning Board’s failure to act on an application within the 120 days or extended time, if applicable, must notify the Town Clerk in writing, within 14 days from the expiration of the time limit for a decision, of the approval and that a copy of that notice has been sent by the applicant to the parties in interest by mail and that each notice specifies that appeals, if any, shall be made pursuant to G.L. c. 40R and shall be filed within 20 days after the date the Town Clerk received the written notice from the applicant that the Planning Board failed to act within the time prescribed.

(d) The Board’s findings, including the basis of the findings, shall be stated in a written decision of approval, conditional approval, or denial of the Site Plan Review application. The written decision shall contain the name and address of the applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Planning Board.

(e) The decision of the Planning Board, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Board of Appeals, and the Building Commissioner. A certified copy of the decision shall be mailed to the owner and to the applicant if other than the owner. A notice of the decision shall be sent to the parties of interest and to persons who requested a notice at the public hearing.

(f) If 20 days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Planning Board to timely act, the Town Clerk shall make that certification on a copy of the notice of application. A copy of the decision or notice of application shall be recorded with the title of the land in question in the Plymouth County Registry of Deeds or the Plymouth Land Registry District 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 responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the applicant.

7. Criteria for Approval – The Planning Board shall approve the Development Project upon finding that it complies with the purposes and standards of the Smart Growth District and applicable Design Standards. Prior to the granting of Site Plan Review for a Development
Project, the Applicant must demonstrate, to the satisfaction of the Planning Board that the method by which affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Kingston.

8. Criteria for Conditional Approval – The Planning Board may impose conditions on a Development Project as necessary to ensure compliance with requirements of Section 6.4, the applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as conditions are compliant with the provisions of G.L. c. 40R and applicable regulations and do not Unduly Restrict opportunities for development. The Planning Board may require construction of an approved Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address any extraordinary adverse Development Project impacts on nearby properties and with the implementation of the infrastructure improvements by the party designated as responsible under the Infrastructure Letters.

9. Criteria for Denial – The Planning Board may deny an application for Site Plan Review pursuant to this Section 6.4 if the Board finds one or more of the following:

(a) the Development Project does not meet the conditions and requirements set forth in the Smart Growth Zoning or applicable Design Standards;
(b) the applicant fails to submit information and fees required by the Smart Growth Zoning District and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts; and,
(c) it is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.

10. Time Limit – A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within 2 years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from the approval. The time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project

11. Appeals – Pursuant to G.L. c. 40R, § 11, provided a bond thereby is duly posted, any person aggrieved by a decision of the Board may appeal to the Superior Court, the Land Court, the Southeast Housing Court, or the District Court within 20 days after the Site Plan Review decision has been filed in the Office of the Town Clerk.

6.4.O. Waivers

The Planning Board may authorize waivers with respect to the standards set forth in Section 6.4 in its decision for Site Plan Review upon a finding that such waivers will allow the Development Project to achieve the density, affordability, mix of uses, and/or physical character allowable. However, the Board may not waive any portion of the Affordable Housing requirements in Section 6.4.M except insofar as the waiver results in the creation of a number of Affordable Units in excess of the minimum number of required Affordable Units, nor may the Board waive the limitations on the number of allowable dwelling units in the Smart Growth District.
6.4.P. **FAIR HOUSING REQUIREMENT**

All Development Projects within the Smart Growth District shall comply with applicable federal, state and local fair housing laws.

6.4.Q. **ANNUAL UPDATE**

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to G.L. c. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD with copies to be made available upon request for public review.

6.4.R. **NOTIFICATION OF ISSUANCE OF BUILDING PERMITS**

Upon issuance of a residential building permit within the Smart Growth District, the Building Commissioner shall file an application to the Department of Housing and Community Development (DHCD), in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to G.L. c.40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to G.L. c.40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD with copies to be made available upon request for public review.

6.4.S. **EFFECTIVE DATE**

The effective date of the Smart Growth District Bylaw shall be the date on which adoption is voted upon by Town Meeting pursuant to the requirements of G.L. c. 40A § 5.

6.4.T. **SEVERABILITY**

The provisions of this section are severable. If any provision of this section is held invalid, the other provisions shall not be affected but shall remain in full force.

### 6.5 LARGE-SCALE GROUND-MOUNTED SOLAR VOLTAIC INSTALLATION OVERLAY DISTRICT (LGSVIOD)

6.5.A. **PURPOSE**

1. **Purpose** – The purpose of Section 6.5 is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety, minimize impacts on scenic, natural, and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

2. **Requirements** – The provisions set forth in this section shall apply to the construction,
operation, and/or repair of large-scale ground-mounted solar photovoltaic installations and shall follow the guidelines set forth in the MA DOER/MA DEP/Mass CEC Ground Mounted Solar PV Guide dated June 2015, as amended to the most current guideline.

6.5.B. APPLICABILITY

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

6.5.C. DEFINITIONS

For Definitions related to Large-scale Ground Mounted Solar Voltaic Terms, see Zoning Bylaw SECTION 2 DEFINITIONS.

6.5.D. GENERAL REQUIREMENTS FOR ALL LARGE SCALE SOLAR POWER GENERATION INSTALLATIONS

The following requirements are common to all solar photovoltaic installations to be sited in designated locations:

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

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

3. Fees – The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

4. Research & Development; Manufacturing – Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities, shall be subject to Site Plan Review by the Planning Board, pursuant to Section 10.3 of the Bylaw, and Section 6.5.D.5. below, Site Plan Review, and subject to the dimensional requirements of Section 6.5.D.8, Dimension and Density Requirements. The Site Plan Review shall be an "expedited" application and permitting process under which said facilities may be sited within one year from the date of initial application to the date of final approval by the Planning Board.

5. Site Plan Review – Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo Site Plan Review by the Planning Board prior to construction, installation or modification as provided in the subsections (a) and (b) below.
(a) General – All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.
(b) Required Documents – Pursuant to the Site Plan Review process, the project proponent shall provide the following documents:

i. A site plan showing:
   - property lines and physical features, including roads, for the project site;
   - proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
   - blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
   - one or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
   - documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
   - name, address, and contact information for proposed system installer;

ii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

iii. The name, contact information and signature of any agents representing the project proponent.

iv. Documentation of actual or prospective access and control of the project site.

v. An operation and maintenance plan (see Section 6.5.D.6 below).

vi. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose).

vii. Proof of liability insurance.

viii. Description of financial surety that satisfies Section 6.4.D.12(c).

ix. A certified abutters list with pre addressed stamped envelopes to notify abutters within 500 feet of subject property.

x. A pre-construction modeling report using Solar Glare Hazard Analysis Tool (SGHAT) or comparable analysis to minimize any glare to surrounding areas.

(c) The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

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

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

8. Dimension and Density Requirements

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

i. Front yard: The front yard setback shall be at least 10 feet; provided, however, that where the lot abuts a Conservation/Recreation Smart Growth Subdistrict or Residential District, the front yard setback shall not be less than 50 feet.

ii. Side yard: Each side yard shall have a setback at least 15 feet; provided, however, that where the lot abuts a Conservation/Recreation Smart Growth Subdistrict or Residential District, the side yard setback shall not be less than 50 feet.

iii. Rear yard: The rear yard setback shall be at least 25 feet; provided, however, that where the lot abuts a Conservation/Recreation Smart Growth Subdistrict or Residential District, the rear yard setback shall not be less than 50 feet.

(b) Appurtenant Structures – All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking, and building coverage. All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. When reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(c) Protection of Forest Land – Not more than 1 acre of land shall be deforested for any single Ground-Mounted Industrial Solar Photovoltaic Installation, and no such installation shall be placed on land that was deforested within the prior 5 years.

9. Design Standards – Solar photovoltaic installations shall meet the following requirements:

(a) Lighting – Lighting of solar photovoltaic installations shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

(b) Signs – Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 9.4., Signs. A sign shall identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

(c) Utility Connections – Reasonable efforts, as determined by the Planning Board, 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.
10. Safety and Environmental Standards – The following standards shall be met:

(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. 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 ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

11. Monitoring and Maintenance

(a) Solar Photovoltaic Installation Conditions – The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

(b) Modifications – All material modifications to a solar photovoltaic installation made after issuance of the building permit shall require approval by the Site Plan Review Authority.

12. Abandonment or Decommissioning

(a) Removal Requirements – Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 6.5.D.12(b) below shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

i. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

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 Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations on the site 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 photovoltaic installation shall be considered abandoned when it fails to operate for more than 1 year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed
date of decommissioning, the town may seek a court order to enter the property and physically remove the installation.

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

6.6 MIXED COMMERCE OVERLAY DISTRICT (MCOD)

6.6.A. PURPOSE

The purpose of the Mixed Commerce Overlay District (MCOD) is to establish an Overlay District that allows for a mixture of various commercial and/or light industrial uses as set forth herein that reflect the goals, vision, and policies of the Town of Kingston, including but not limited to:

1. employ Town resources to attract businesses which are compatible with achieving beneficial economic development while preserving the Town's character;
2. establish a design review process as an integral part of a streamlined and integrated permitting process;
3. promote economic development within the Town that results in expanded and new light industrial and high-tech businesses within the MCOD, provides new jobs and expands the Town’s tax base and public services without increasing the tax burden of residents;
4. concentrate commercial and industrial development in designated MCOD areas; and
5. provide additional employment opportunities.

6.6.B. MCOD BOUNDARY

The MCOD boundary is an Overlay District depicted on the Town's Zoning Map. It is an Overlay District that cannot be construed as affecting or abridging the underlying Zoning Districts. All uses allowed in the underlying Zoning District shall continue to be allowed in the manner permitted under these zoning bylaws.

6.6.C. USES PERMITTED

Subject to the approval of a special permit from the Special Permit Granting Authority as required below, the following uses are permitted in the MCOD:

1. Bank, including drive-in or window services, provided that no vehicles waiting for service shall park or queue on a public way.
2. Hotel, Inn, Motel or Lodging House.
3. Industrial Park.
4. Manufacturing, processing or research facilities.
5. Professional or business office or Office Park.

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6. Restaurant.
7. Showroom.
8. Warehouse.
9. Wholesale and/or food distribution center, provided that all bulk sales, outside display, and storage occur to the rear of the principal building.

6.6.D. **Special Permit Granting Authority (SPGA)**

The Planning Board shall be the SPGA for all projects in the MCOD. In acting upon applications for a special permit, the SPGA shall be governed by the provisions of this Section 6.6.F and by Section 10.7.

6.6.E. **Procedures**

1. **Process** – Any applicant who desires to opt into the MCOD Overlay District for any of the uses permitted under Section 6.6.C above shall be required to undertake a two-step process with the Special Permit Granting Authority (SPGA). The two-step process shall require the approval of both a special permit and a site plan review.

   The first request shall be for a special permit and the second request shall be for the site plan review approval. However, notwithstanding the forgoing, nothing herein shall preclude an applicant from seeking the special permit and site plan review concurrently. Should an applicant elect to do so, the public hearing shall be combined, with the relevant deadlines and time periods following the special permit procedures.

2. **Application Requirements** – The application to the SPGA for a special permit shall be accompanied by a conceptual site plan, an existing conditions plan, and a conceptual subdivision plan, as the Planning Board may describe in development regulations promulgated hereunder.

   In addition to the materials described above the application shall be accompanied by the following materials:

   (a) a plot plan showing the proposed location of all buildings and structures on the lot, or proposed building envelopes, if applicable;
   (b) an off-street parking and loading plan;
   (c) a landscaping plan;
   (d) a traffic study evaluating traffic volume and traffic safety issues; and a proposal for mitigating measures to improve safety and capacity, and for trip reduction programs, if any;
   (e) proposals for mitigating measures or the construction of improvements to deal with the impacts, other than traffic impacts, of the proposed development or to provide sufficient capacity in Town facilities or services, and any other material necessary for the SPGA to make the finding and determination required by the Zoning Bylaws or as may be required by the written regulations or findings of the SPGA;
   (f) the SPGA may request other information, plans, and studies as may be reasonably required.
6.6.F. **SPECIAL PERMIT**

1. A special permit is required for any tract of land that is located within the MCOD that meets the dimensional requirements found in Section 8.0. The special permit shall:

   (a) establish the permitted uses for the proposed site;
   (b) set the maximum building and/or until densities and floor area ratio;
   (c) determine the maximum building height;
   (d) set the grades for the clearing and grading of the site; and
   (e) impose any other reasonable requirements as determined by the Planning Board.

6.6.G **SITE PLAN REVIEW**

1. Site Plan Review approval by the Special Permit Granting Authority is required. The Site Plan Review approval shall:

   (a) establish the location and number of building lots and development sites within the MCOD;
   (b) identify specific tenants or occupants (if known) within the proposed development and the permitted uses on such lots; and
   (c) determine the location of the proposed building footprints, drive aisles, parking locations, lighting, signage, architectural designs and specification, drainage, utilities, and other such details.

2. Final plans and specifications with respect thereto must be submitted to and approved by the Special Permit Granting Authority on a Site Plan Review basis only, as part of any second and subsequent components of this process. The site plan approval process is as set forth in Section 10.3, or any regulation as may be promulgated by the Planning Board.

6.6.H. **SUBDIVISION PLAN**

Where the applicant submits a definitive subdivision plan complying with the Subdivision Control Law and the Planning Board’s “Development Regulations”, insofar as practical, the public hearing on the application for the special permit and the definitive subdivision plan shall be held concurrently.

6.6.I. **ENVIRONMENTAL CONSIDERATIONS**

The application to the SPGA for a special permit under this Section shall be accompanied by proposals for mitigating the environmental impacts of the proposed development including but not limited to:

1. Earth moving and grading activities – The applicant shall design the project such that the site grades are transitioned to surrounding properties with no sand or gravel being removed from the site.

2. Landscaping and Irrigation – The applicant shall incorporate measures to minimize the amount of water needed for maintaining outdoor landscaping, such as the use of native species and low-water-demand plantings, and the use of rain sensors and drip systems. The
6.6. J. DIMENSIONAL REQUIREMENTS

Dimensional Requirements for the MCOD – See Section 8.0.

6.7 MIXED-USE REDEVELOPMENT OVERLAY DISTRICT (MUROD)

6.7.A. PURPOSE

The purpose of the Mixed-Use Redevelopment Overlay District (MUROD) is to establish an Overlay District that allows for a mixture of residential, retail, commercial, entertainment, and mixed-use development within a distinctive, attractive, and livable environment that reflects the goals, visions, and policies of the Town of Kingston.

6.7.B. DEFINITIONS

In addition to the Definitions contained elsewhere in the Zoning Bylaw, the following term shall have the meaning shown below:

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Mixed-Use Redevelopment Overlay Zoning District – A zoning district that is overlaid, in whole or in part, upon one or more underlying zoning districts, as depicted on the Zoning Map, and that allows for additional or alternative requirements or provisions that may not be allowed by the underlying zoning, while still allowing uses already permitted in the underlying district.

6.7.C. SITE PLAN REVIEW AND SPECIAL PERMIT REQUIRED

Any development within the MUROD shall require Site Plan Review and, as may be set forth below, a Special Permit. The Planning Board shall act as the Site Plan Review and Special Permit Granting Authority. The proceeding for Site Plan Review shall be consolidated with the Special Permit proceeding, as may be applicable, with the deadlines required for Special Permit applications applying to the Site Plan Review proceeding. Where standards or other requirements that may be applicable to any development proposed may conflict with those in the underlying zoning district, the overlay provisions shall apply; except when in conflict with the Water Resource Overlay District.

6.7.D. PERMITTED USES

The following uses are permitted in the MUROD subject to Site Plan Review:

1. Hotels, Motels and Inns, not to exceed 150 rooms or rental units for the entire Overlay District.
2. On-Site Solar Photovoltaic Installations, including ground mounted and roof-top solar photovoltaic systems.

6.7.E. SPECIAL PERMIT USES

The following use is permitted in the MUROD subject to a Special Permit and Site Plan Review:

Multi-family and Apartment Dwellings – There may be up to a maximum of 300 hundred units for the entire overlay district with one, two, or three bedrooms per unit. No more than 5% of the total number of units shall have more than two bedrooms.

6.7.F. DIMENSIONAL REQUIREMENTS FOR CERTAIN USES

1. Height Limitations for Hotels, Motels, Inns, Multi-Family Dwellings, Apartments, and existing Mixed-use Buildings – Building heights shall not exceed the height restrictions of the underlying zoning district without prior written approval from the Fire Chief (this approval to be provided to the Planning Board) and/or the Planning Board. No building shall have more than 4 stories.

2. Additional Dimensional Requirements – For additional MCOD dimensional requirements, see the Intensity and Dimensional Requirements Table in Section 8.

6.7.G. PARKING REQUIREMENTS

Except as required in Sections 6.7.G.1. and 2. below, the base parking standards for the underlying zoning districts shall apply to individual uses in the MUROD.

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1. Required Parking for Hotel, Motel, and Inn Uses – One space shall be provided for each hotel, motel, or inn room or suite.

2. Shared On-Site Parking – Shared parking shall meet the following:

   (a) Noncompeting Uses – In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 60% of the requirements for the predominant use may be waived by the Planning Board during Site Plan Review if the applicant can demonstrate that the peak demands for two uses do not overlap.

   (b) Competing Uses – In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board, in acting upon a Site Plan Review may reduce the parking requirements of the predominant use by up to 30%, provided that the applicant demonstrates that the reduction will not result in a shortage of parking spaces.

6.7.H. **Decision Criteria for the Planning Board**

1. The Planning Board may approve, approve with conditions, or deny an application for Site Plan Review or a Special Permit within the MUROD.

2. The criteria for this the Planning Board’s decision are as follows:

   (a) the degree to which the proposed development furthers the purposes of this Bylaw as listed in Section 6.7.A;

   (b) compliance with the requirements listed in the Kingston Zoning Bylaw;

   (c) in the case of projects requiring Site Plan Review, consistency with the findings required in Section 10.3.D of the Bylaw;

   (d) in the case of projects requiring Special Permits, consistency with the findings required in 10.7.B of the Bylaw.

   (e) the ability of the neighborhood to absorb the level of traffic that will result from the proposed development;

   (f) the ability of the applicant or Town to provide water and sewer service as proposed: and,

   (g) the proposed project’s benefit to the Town including but not limited to benefits relating to economic development, housing choice, and smart growth principals.

6.7.I. **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.

6.7.J. **Design Standards**

The Planning Board may adopt regulations consistent with this Bylaw for design standards, plan requirements, and other essential guidelines that will facilitate developments proposed in the MUROD.
6.8 WATER RESOURCE OVERLAY DISTRICT

6.8.A. PURPOSE

The purpose of the Water Resource Overlay District is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the Town’s groundwater and surface water resources in order to insure a safe and healthy public water supply.

6.8.B. Water Quality Review Committee

1. Establishment – There shall be a Water Quality Review Committee, which is comprised of the members of the Board of Water Commissioners or their designees.

2. Powers – The Water Quality Review Committee shall have the following powers:

   (a) Certificate of Water Quality Compliance – The Committee may grant a Certificate of Water Quality Compliance in accordance with the provisions of Section 6.8, Water Resource Overlay District.

   (b) Compliance Review – The Committee shall review compliance with Section 6.8, Water Resource Overlay District and with the Certificate of Water Quality Compliance.

   (c) Rules, Regulations, Fees and Payment – The Water Quality Review Committee shall be authorized to establish rules and regulations concerning the orderly administration and enforcement of the Water Resources Overlay District, including application requirements and a schedule of fees, costs, and fines as may be reasonably required to process applications and investigate, document, or abate violations.

6.8.C. USES PERMITTED

Within the boundaries of the Water Resource Overlay District, land use shall be subject to the same use and development provisions of the underlying district as may otherwise apply, except as herein provided.

6.8.D. USES PROHIBITED

1. The following uses and activities are expressly prohibited within the Water Resource Overlay District.

   (a) storage of liquid petroleum products except in connection with the uses shown in 6.8.C.1(a)-iv. below and provided that storage referred to in items i. through iv. is in free-standing containers within buildings or above-ground and has secondary containment adequate to contain a spill the size of the container’s total storage capacity. In no event, however, shall the secondary containment capacity be less than one and one-half times the container’s total storage capacity.

      i. normal household use and outdoor maintenance or the heating of a structure;
      ii. waste oil retention facilities required by G.L. c. 21, § 52A;
iii. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters.

(b) landfills and dumps.
(c) storage and/or landfilling of sludge and septage as defined in 310 CMR 32.05.
(d) junkyard.
(e) municipal or commercially operated wastewater treatment facilities, except for:
   i. replacement or repair of such facility that will not result in a design capacity greater than that of the existing facility;
   ii. facilities treating contaminated ground or surface water;
   iii. facilities for the treatment and/or disposal of treated wastewater from a municipally owned wastewater treatment facility including treated wastewater disposal beds and/or leaching fields within that portion of the Water Resource Overlay District, shown on the Zoning Map, lying northeast of Muddy Pond, west and northwest of Smelt Pond, south of Second Brook Street, and east of Brookedge Road, that is tributary to the Second Brook Well, provided the treated wastewater meets applicable Massachusetts drinking water regulations.

(f) car wash.
(g) stockpiling and disposal of snow and ice containing de-icing chemicals.
(h) stockpiling and storage of road salt and other de-icing chemicals.
(i) any use or activity, whether principal or incidental, which involves the generation, treatment, storage, or disposal of toxic or hazardous materials or waste in quantities greater than those associated with normal household use.
(j) storage of animal manure unless covered or contained in accordance with the specifications of the United States Soil Conservation Service.
(k) stockpiling or storage of bulk commercial fertilizers unless such storage is within a structure designed and constructed, in the opinion of the Water Quality Review Committee, to prevent contaminated runoff or leachate.
(l) dry cleaning establishments.
(m) metal plating.
(n) chemical and bacteriological laboratories.
(o) earth removal within 10 feet of the United States Geological Survey historic high water table or equivalent data determined by the Water Quality Review Committee more specific to the site, except for excavations necessary for building foundations, roads and utilities.
(p) boat and motor vehicle service and repair.
(q) individual sewage disposal systems designed to receive more than 440 gallons per 40,000 sq. ft. under one ownership per day, provided that this prohibition shall not apply to the replacement or repair of a system in existence on the date of the adoption of this provision. For systems with a sewage design flow below 2000 gallons per day, an increase in calculated allowable nutrient loading per acre to 550 gallons per acre, may be allowed for the use of Department of Environmental Protection approved Certified Technology when the system technology, system design and the required maintenance program have been approved by the Water Quality Review Committee through the issuance of a Certificate of Water Quality Compliance.
(r) any use or development of land which includes creation or maintenance of impervious surfaces covering more than 15 percent of the premises area.
6.8.E. Standards for Use

1. Performance Standards – To preserve the natural land surface providing high quality recharge to the groundwater, to limit sewage flow and fertilizer application to amounts which will be diluted adequately by natural recharge, to prevent the formation of plumes of contamination in the groundwater system, and to prevent the discharge or leakage of toxic or hazardous substances into the groundwater, all uses other than single family dwellings shall meet the following performance standards:

   (a) The concentration of nitrate nitrogen resulting from wastewater disposal and from fertilizer application, when diluted by rainwater recharge on the premises, shall not exceed 5 parts per million.
   (b) In no event shall sewage flow as determined by Title 5 of the State Environmental Code exceed 20,000 gallons per day for the premises. The area of the premises maintained as cultivated lawn shall be less than 10 percent.
   (c) All toxic or hazardous materials shall be stored in product tight containers protected from corrosion, accidental damage or vandalism and shall be used and handled in such a way as to prevent spillage into the ground or surface waters. A product inventory shall be maintained and reconciled with purchase, use, sales, and disposal records at sufficient intervals to detect product loss.
   (d) No toxic or hazardous materials shall be present in wastes disposed on the premises. Wastes composed in part or entirely of toxic or hazardous materials shall be retained in product tight containers for removal and disposal by a hazardous waste transporter licensed by the Commonwealth or as directed by the Board of Health.
   (e) With the exception of the 5 parts per million nitrate nitrogen limit as stated Section 6.8.E.1(a), contaminant levels in groundwater resulting from disposal of process wastes from operations other than personal hygiene and food for residents, patrons and employees or from wastewater treatment and disposal systems greater than 10,000 gallons per day capacity shall not exceed those levels specified in 310 CMR 22.00, Drinking Water Regulations of the Massachusetts Department of Environmental Protection after allowing for dilution by natural recharge on the premises.
   (f) All runoff from impervious surfaces shall be recharged on the premises, diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. In the vicinity of chemical or fuel delivery points, provision shall be made for spill control.
   (g) Sand or gravel removal operations shall be limited in depth so that the water table will not be exposed at any time. Land area exposed at any time shall be minimized and land shall be returned to a natural vegetative state within 1 year of completion of operations.
   (h) Where the premises are partially outside the Water Resource District potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

2. Exemptions – The Water Quality Review Committee may, in accordance with Section 6.8.G, and in accordance with Section 6.8.F., Certificate of Water Quality Compliance, exempt roof surfaces from the calculation of impervious surfaces provided that:

   (a) All runoff from the roof is recharged on the premises and diverted toward areas covered with vegetation.
(b) When roof-top drainage is to be subtracted from the impervious cover equation, the roof-top drainage allowance will be restricted to less than 60% of the total impervious area.

(c) Provisions for recharge are shown in plans approved by the Water Quality Review Committee. Plans shall include all facilities for recharge, a maintenance plan, and provisions for compliance with the conditions of Section 6.8.E above.

(d) Roof surfaces of industrial uses that have air emissions of contaminants shall not be exempted from the calculation of impervious surface and drainage from such roof surfaces may not be recharged.

6.8.F. Certificate of Water Quality Compliance

1. Water Quality Certificate – Irrespective of the requirements of Section 10, Administration, a Certificate of Water Quality Compliance shall be obtained by the owners of the premises from the Water Quality Review Committee for erection of any new principal structure other than a single family dwelling.

2. Building Permit & Occupancy Certificate – No Building Permit or Certificate of Use and Occupancy shall be issued by the Building Commissioner, other than for a single family dwelling, except in compliance with a certificate as required herein, which certificate has been duly recorded in the Plymouth County Registry of Deeds.

3. Certificate Grant – A certificate of Water Quality Compliance shall be granted only for new construction or additions or new activities not involving structures, or for changes in occupancy or operation on previously developed premises, only if in full compliance with all conditions of use herein above enumerated.

4. Application Information – In applying for a Certificate of Water Quality Compliance, 5 sets of application materials shall be submitted to the Zoning Enforcement Officer who shall forward one set to each member of the Water Quality Review Committee. All information necessary to demonstrate compliance must be submitted including but not limited to the following:

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

(b) a description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods;

(c) evidence of compliance with all requirements of conditions of use as herein above enumerated;

(d) all multi-family developments which will have 2 or more dwelling units, hotels, and motels, clustered developments, planned developments, nursing homes, and hospitals, and any project resulting in wastewater discharge of greater than 1000 gallons per day per single acre shall be required to submit the following:

i. a water table contour map and a geologic description of the area in the vicinity of the proposed project to determine groundwater flow directions;

ii. projections of nitrogen levels in downgradient groundwater, simulation of contaminant movement in groundwater and delineation of plumes;

iii. a projection of the impacts on downgradient drinking water (public and private wells: existing, future and potential), on lakes and ponds, and on coastal waters; and
iv. the information submitted to the Water Quality Review Committee must demonstrate that no significant impact to downgradient water resources will occur as a result of the project.

5. Water Quality Review Committee Decision – The Water Quality Review Committee shall act within 45 days of acceptance of a complete application, approving it by issuing a Certificate of Compliance if a majority determine that the applicant has adequately demonstrated compliance with the requirements of the Water Resource District and rejecting the application otherwise. Failure by the Water Quality Review Committee to take final action by either accepting or rejecting the application shall not in any circumstance be deemed a constructive approval and shall not be interpreted to create any rights in the applicant.

6. Compliance Review – Every 3 years the Water Quality Review Committee shall review compliance with this Bylaw and the Certificate of Water Quality Compliance. Upon request, Certificate holders shall submit the following:

(a) Description of any changes from the originally submitted materials.
(b) Certification that the waste disposal system has been inspected by a Certified Title V System Inspector or Treatment Plant Operator within the preceding 90 days and found to be in proper operating condition.
(c) Results from analysis of leachate or waste waters as may be required by the Board of Health. Evidence of non-compliance shall be reported to the Inspector of Buildings and the Board of Health for enforcement action.

6.8.G. Enforcement

1. Enforcement Process – The provisions of Section 6.8, Water Resource Overlay District, shall be enforced by the Zoning Enforcement Officer or Agent of the Board of Health. The Zoning Enforcement Officer or Agent of the Board of Health may enter upon the premises, if the premises are generally open to the public or the property owner invites the public official onto the property or the Town obtains an administrative search warrant from a court of law, at any reasonable time to inspect for compliance with the provisions of this Bylaw. Evidence of compliance with approved waste disposal plans may be required by the enforcing officers. All records pertaining to waste disposal and removal shall be retained by the property owner at the property. Nothing herein contained shall be construed to infringe upon the Building Commissioner’s responsibilities under the State Building Code and/or Zoning Act.

2. Violations – Written notice of any violations from the Zoning Enforcement Officer or agent of the Board of Health shall be provided to the holder of the Certificate of Water Quality Compliance. The notice shall specify a time for compliance including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 45 days be allowed for either compliance or finalization of a plan for longer term compliance, approved by the Water Quality Review Committee.
SECTION 7 SPECIAL USE REGULATIONS

7.1 SMALL WIND ENERGY SYSTEMS (SWES)

7.1.A. PURPOSES

The purpose of Section 7.1 are:

1. to provide a permitting process for Small Wind Energy Systems (SWES) so that they can be utilized in a cost-effective, efficient, and timely manner to reduce the consumption of utility-supplied electricity;

2. to integrate these systems into the community in a manner that minimizes their impact on the character of neighborhoods, on property values, and on the scenic, historic and environmental resources of the Town; and,

3. to protect health and safety, while allowing wind energy technologies to be utilized.

Small Wind Energy Systems (SWES) are units that carry a nameplate rating of 50 kW or less. Section 7.1 shall apply to any SWES that will exceed the height limitations of the Section 8 Intensity and Dimensional Regulations.

7.1.B. PERMIT REQUIREMENTS

1. PERMIT REQUIRED – Small wind energy systems that comply with the requirements of Section 7.1 may be allowed by building permit from the Building Commissioner in accordance with the requirements set forth herein. The Building Commissioner may grant a permit only if the application complies with the provisions of Section 7.1 and is consistent with the applicable criteria for granting permits. The Building Commissioner may waive or adjust any of the requirements outlined below, consistent with the purposes of this Section, except for the special requirements for the reduction of setbacks in Section 7.1.C.3.(c) below.

2. SITE PLAN – An existing site plan shall be modified if applicable or if no existing site plan is available a new plan shall be prepared to scale by a registered land surveyor or licensed civil engineer showing the location of the proposed SWES and any associated buildings or appurtenances, distances to all property lines, and abutting residences, existing and proposed structures, existing and proposed elevations, above ground utility lines, any other significant features or appurtenances, any measures designed to mitigate the impacts of the SWES, and at the discretion of the Building Commissioner:

   (a) Existing conditions and proposed improvement maps including, without limitation, the following scaled information for both existing conditions and proposed improvements:

      i. locus map;
      ii. adjacent streets and ways;
      iii. lot boundaries;
      iv. location and names of adjacent properties;

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v. easements and restrictions;
vi. land use districts;
vii. overlay districts (if any);
viii. topography including contours;
ix. wetlands;
x. water bodies;
xi. watercourses, and areas subject to flooding;

xii. soil types;
xiii. vegetation;
xiv. farmland;

xv. trails;

xvi. structures;
xvii. unique natural site features including screening, fencing, and plantings;
xviii. open space or recreational areas;
xix. lighting;
xx. natural and man-made drainage infrastructure;
xxi. vehicular circulation;
xxii. signs;
xxiii. building plans and elevations; and,

xxiv. other information required by the Building Commissioner to properly evaluate the proposal.

(b) design features which will integrate the proposed SWES into the existing landscape, maintain neighborhood character, enhance aesthetic assets and screen objectionable features from neighbors and roadways;

(c) control measures to prevent erosion and sedimentation during and after construction and to specify the sequence of grading and construction activities, location of temporary control measures, and final stabilization of the site; and

(d) if the land will be developed in more than one phase, a comprehensive plan for an entire property showing intended future development.

3. WAIVERS – Any submittals required in this section 7.1.B.1 may be waived if in the opinion of the Building Commissioner the materials submitted are sufficient for the Building Commissioner to make a decision.

7.1.C. DIMENSIONAL REQUIREMENTS

1. TOWER HEIGHT – On parcels of less than 90,000 square feet, the tower height shall not exceed 60 feet. For parcels of 90,000 square feet or more, the tower height shall not exceed 160 feet. Tower height shall be measured from the existing grade to the upper most extension of the structure.

2. FALL ZONE – The fall zone is defined as a circular area equal to the height of the entire SWES measured from the top of the foundation to the point of greatest vertical extension.

3. SETBACKS – Setback requirements include the following:

(a) The minimum horizontal distance from the base of the tower structure to any property line or road right-of-way shall be the tower height plus 10 feet.
(b) No part of the SWES, excluding guy wire and anchors, may extend closer to the property boundaries than the setback for the applicable zoning district.
(c) The SWES shall be a minimum of three times its tower height from existing abutting residences.
(d) The Building Commissioner may reduce the above setback distances for the SWES if consistent with the requirements of public health, safety, and welfare and the purposes of this Section. If the setback distances are reduced to less than the height of the tower from abutting property such reduction shall only be permitted if the affected abutting property owner(s) executes a recorded easement allowing the fall zone to extend onto such abutting property.

4. **ACCESS** – All small wind energy systems shall be designed and maintained to securely prevent unauthorized access to any climbing apparatus.

5. **COLOR AND FINISH** – A non-reflective exterior color designed to blend with the surrounding is encouraged. No commercial advertising, designs, decorations, or writing other than the manufacturer’s standard identification shall be visible at or beyond the property line.

6. **VISUAL IMPACT** – The applicant shall demonstrate through project site planning and proposed mitigation that the SWES minimizes impacts on the visual character of the surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design or appearance, buffering, screening, or lighting. All electrical conduits shall be underground.

7. **NOISE** – Small wind energy systems shall comply with the Massachusetts noise regulation (310 CMR 7.10).

8. **COMPLIANCE WITH FAA STANDARDS** – All SWES towers shall also comply with applicable FAA regulations.

### 7.1.D. GENERAL REQUIREMENTS

1. **CONSTRUCTION** – The construction, operation, maintenance, and removal of wind facilities shall be consistent with all other applicable town, state, and federal requirements, including all applicable health, safety, construction, environmental, electrical, communication, and aviation requirements.

2. **OPERATION AND MAINTENANCE** – An application for a permit shall include a plan for the general procedures for safe and effective operation and maintenance of the facility.

3. **COMPLIANCE WITH STATE BUILDING CODE** – Building permit applications for small wind energy systems shall comply with the state building code and all applicable electrical codes.

4. **UTILITY NOTIFICATION** – No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off grid systems shall be exempt from this requirement.

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7.1.E. **ABANDONMENT AND REMOVAL**

1. **ABANDONMENT** – A SWES shall be considered to be abandoned if it is not operated for a period of 2 years, or if it is designated a safety hazard by the Building Commissioner. If the Building Commissioner determines that a SWES is abandoned, the owner shall be required to physically remove the SWES within 90 days of written notice from the Building Commissioner. The owner shall have the right to respond to the written notice of abandonment within 30 days of the notice. If the owner can provide information demonstrating the SWES has not been abandoned, the Building Commissioner may withdraw the notice of abandonment. If the owner fails to remove the SWES in accordance with the requirements of this Section after 90 days of the notice and the Building Commissioner has not withdrawn the notice, the Town shall seek appropriate court authority to enter the property and physically remove the facility at the owner's expense.

2. **REMOVAL** – “Physically Remove” shall include but not be limited to:

   (a) removal of SWES, any equipment shelters, and security barriers from the subject property;
   (b) proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations; and,
   (c) restoring the location of the SWES to its natural condition, except that any landscaping and grading shall remain in the after-condition.

7.2 **MEDICAL MARIJUANA CENTERS**

7.2.A. **PURPOSES**

The purposes of Section 7.2 are to:

1. provide for the establishment of Medical Marijuana Centers in locations appropriate for the use and to regulate the use consistent with the regulations adopted for such facilities by the Cannabis Control Commission 935 CMR 501.000 which contains additional definitions and regulations relative to the registration, establishment, operations, and regulation of such centers/dispensaries, as well as hardship cultivation registration by the Cannabis Control Commission. Nothing in this section is intended to regulate or prohibit uses or activities under a hardship cultivation registration;

2. minimize the adverse impacts of Medical Marijuana Centers on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Centers; and,

3. regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Centers.

7.2.B. **APPLICABILITY**

No Medical Marijuana Center shall be established except in compliance with the provisions of Section 7.2. Nothing in this Section shall be construed to supersede any state or federal laws or

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regulations governing the sale and distribution of narcotic drugs. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale trade, distribution, or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Center under Section 7.2.

7.2.C. DEFINITIONS

MARIJUANA – Marijuana includes all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes marijuana infused products except where the context clearly indicates otherwise.

MARIJUANA FOR MEDICAL USE – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the of Debilitating Medical Conditions as set forth in 935 CMR 501.000.

MEDICAL MARIJUANA FACILITY – A ”Medical Marijuana Center” or Registered Marijuana Dispensary (“RMD”) shall mean an entity formerly and validly registered under 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana, or currently and validly registered under 935 CMR 501,100, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

7.2.D. GENERAL REQUIREMENTS AND CONDITIONS FOR ALL MEDICAL MARIJUANA FACILITIES

1. All non-exempt Medical Marijuana Centers shall be contained within a building or structure.

2. No Medical Marijuana Centers shall have a gross floor area of less than 2,500 square feet or more than 20,000 square feet.

3. Medical Marijuana Centers shall not be located in buildings that contain any medical doctor’s offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

4. The hours of operation of Medical Marijuana Centers shall be set by the Planning Board who are the Special Permit Granting Authority, but in no event shall said facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.

5. No Medical Marijuana Center shall be located on the same lot or a lot which abuts, or which is within 100 feet any public or private school building, day care facility or any public playground, recreation facility, athletic field, or other park where children congregate, or any residential zoning district.

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6. No smoking, burning, or consumption of any product containing marijuana or marijuana related products shall be permitted on the premises of a Medical Marijuana Center.

7. Medical Marijuana Centers shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a trailer, recreational vehicle, or a movable or stationary mobile vehicle.

8. Notwithstanding any provisions of Section 9.4., Signs, signage for all Medical Marijuana Centers shall include the following language: “Registration card issued by the MA Cannabis Control Commission required.” The required text shall be a minimum of 2 inches in height. The sign shall be located in a visible location near the main entrance to the facility. Exterior signs shall identify the name of the establishment but shall not contain any other advertising information.

9. Medical Marijuana Centers shall provide the Police Department, Building Commissioner and the Planning Board with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is any change in management staff or keyholders.

**7.2.E. SPECIAL PERMIT REQUIREMENTS**

1. **SPECIAL PERMIT** – Medical Marijuana Centers shall be allowed by Special Permit issued by the Planning Board in accordance with G.L. c. 40A, § 9, and Section 10.7, subject to Section 7.2.E.2 below.

2. **SPECIAL PERMIT USES** – A Special Permit for a Medical Marijuana Center shall be limited to one or more of the following uses as may be determined by the Planning Board:

   (a) Cultivation of Marijuana for Medical Use.
   (b) Processing and packaging of Marijuana for Medical Use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products.
   (c) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients.

3. **SPECIAL PERMIT APPLICATION** – In addition to the application requirements established by the Planning Board by rule and elsewhere in this Bylaw, a Special Permit application for a Medical Marijuana Center shall include the following:

   (a) the name and address of each owner of the establishment and property owner;
   (b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
   (c) evidence of the applicant's right to use the site for the establishment, such as a deed, or lease;
   (d) if the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are
entities rather than persons, the applicant must disclose the names and addresses of all individuals associated with that entity;
(e) a certified abutters list of all parties in interest entitled to notice of the hearing for the Special Permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
(f) proposed security measures for the Medical Marijuana Center, including lighting, fencing, surveillance cameras, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft; security measures shall be reviewed and approved by the Police Department;
(g) acknowledgement that the facility shall provide service to qualified patients by appointment only;
(h) acknowledgment that the facility shall provide free delivery to all qualified patients;
(i) acknowledgement that no products shall be displayed in the facility's windows or be visible from any street or parking lot; and,
(j) that all employees shall be 21 years of age or older.

4. MANDATORY FINDINGS – In addition to the findings required under Section 10.7., the Planning Board shall not issue a Special Permit for a Medical Marijuana Facility unless it finds that:

(a) the establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
(b) the applicant clearly demonstrates that they will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and,
(c) the applicant has satisfied all of the conditions and requirements of this Section 7.2.

5. ANNUAL REPORTING – All Medical Marijuana Centers permitted under this Bylaw shall as a condition of its Special Permit file an annual report with the Planning Board, Police Chief, and the Town Clerk no later than January 31st of each year. The Annual Report shall include a copy of all current applicable state licenses for the establishment and/or its owners and demonstrate continued compliance with the conditions of the Special Permit. In the event that the Annual Report is not received by January 31st of each year or if the report is incomplete, the owners of the Medical Marijuana Center will be required to appear before the Planning Board to provide the required information.

6. APPROVAL TIME LIMIT AND TRANSFER OF PERMIT – A Special Permit granted under this Section shall have a term limited to the duration of the applicant’s ownership or lease of the premises as a Medical Marijuana Center. A Special Permit may be transferred only with the approval of the Planning Board in the form of an amendment to the Special Permit with all information required in this Section 7.2.

7.2.F. ABANDONMENT OR DISCONTINUANCE OF USE

1. BOND REQUIRED – The Planning Board shall require the applicant to post a bond prior to the issuance of a building permit to cover costs for the removal of the Medical Marijuana Center in the event the Town must remove the facility. The value of the bond shall be based upon the cost to completely remove all the items noted below in Section 7.2.F.3. and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the
applicants providing the Planning Board with 3 written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the Town to remove the improvement in compliance with law at prevailing wages.

2. **Lapse of Permit** – A Special Permit shall lapse if not exercised within one year of issuance.

3. **Removal of Equipment** – A Medical Marijuana Center shall be required to remove all materials, plants, equipment and other paraphernalia:
   
   (a) prior to surrendering its state issued licenses or permits; or
   
   (b) within six months of ceasing operations; whichever comes first.

7.2.G. **Severability**

If any provision of Section 7.2 or the application of any such provision to any person or circumstance shall be held invalid, the remainder of Section 7.2, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of Section 7.2 are severable.

7.3 **Marijuana Establishments**

7.3.A. **Purposes**

The purposes of Section 7.3 are to:

1. provide a permitting process for the placement of Marijuana Establishments, in accordance with the Regulation and Taxation of Marijuana Act, as amended, and as codified in G.L. c. 94G, § 1, et seq. (hereinafter G.L. c. 94G), and the Cannabis Control Commission (hereinafter CCC) Regulations promulgated thereunder, 935 CMR 500.000, as the same may be amended from time-to-time, in locations suitable for lawful Marijuana Establishments;

2. minimize and mitigate adverse impacts of Marijuana Establishments on adjacent properties, public ways, residential neighborhoods, historic districts, schools, playgrounds, and other land uses potentially incompatible with said facilities, by regulating the siting, design, and placement of Marijuana Establishments.

7.3.B. **Definitions**

1. The following definitions of Marijuana and Marijuana Establishments shall apply to Section 7.3:

   **Craft Marijuana Cultivator Cooperative** – This is a marijuana cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the CCC, and that is licensed to cultivate, obtain, manufacture, process, package, and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments, but not to consumers, as defined in G.L. c. 94G.
**Marijuana or Marijuana** – This is all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that “Marijuana” shall not include:

(a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
(b) hemp; or,
(c) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

**Marijuana Cultivator** – This is an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers, as defined in G.L. c. 94G.

**Marijuana Establishment** – This is considered a cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, all as defined in G.L. c. 94G or 935 CMR 500.02. Said Marijuana Establishments shall be deemed independent of any other definition in this Bylaw and not a subset or subcategory of any other category. Said Marijuana Establishments may never be considered an accessory use.

**Marijuana Product Manufacturer** – This is an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers, as defined in G.L. c. 94G.

**Marijuana Products** – These are products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures, as defined in G.L. c. 94G.

**Marijuana Retailer** – This is an entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers, as defined in G.L. c. 94G, further provided that a Marijuana Retailer may not be considered a Retail Business in any other context.

**Marijuana Testing Facility** – This is an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants, as defined in G.L. c. 94G.

2. Definition of other terms used in this section:
Where not expressly defined in the Zoning Bylaw Section 2.0., Definitions, terms used in this Section shall be interpreted as defined in The Regulation and Taxation of Marijuana Act, as amended, and as codified in G.L. c. 94G, and the CCC Regulations promulgated thereunder, 935 CMR 500.000, et seq., as the same may be amended from time-to-time, and otherwise by their plain language.

7.3.C. **GENERAL REQUIREMENTS**

1. A Special Permit shall be required for the establishment of a Marijuana Establishment. For the purposes of this Section, the Special Permit Granting Authority (SPGA) shall be the Planning Board.

2. All permitted Marijuana Establishments shall have received a provisional license from the CCC 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. Failure to obtain a final license from the CCC shall result in automatic rescission of the special permit as more fully described in Section 7.3.C.4. below. No Building Permit or Certificate of Occupancy shall be issued for a Marijuana Establishment that has not received a provisional license from the CCC.

3. The Special Permit shall be valid only for the Applicant(s), shall become invalid if the Applicant(s) cease operating the licensed Marijuana Establishment, and shall not transfer with a change in ownership of the business and/or property.

4. The Special Permit shall become invalid if the Applicant(s) fails to obtain a final license from the CCC or upon the expiration or termination of the Marijuana Establishment’s CCC license.

5. Parking and loading for a Marijuana Establishment shall be in accordance with Section 9.2, Off-street Parking requirements, and Section 9.3, Off-street Loading requirements, as well as the establishment’s applicable zoning. However, the SPGA may require a greater number of parking spaces and/or loading bays if it finds, based on the application materials submitted to the SPGA regarding operation of the Marijuana Establishment, that the minimum requirements are not sufficient.

6. All signage shall conform to the requirements of Section 9.4 Sign Regulations, Any exterior sign may identify the Establishment, but shall not contain any other advertisement. The SPGA may impose additional restrictions on signage as appropriate for the site, provided such regulations and restrictions do not conflict with State law or any CCC regulation.

7. All Marijuana Establishments shall operate within a fully enclosed building that is monitored by surveillance cameras, alarm systems, and all other security measures in accordance with CCC Regulations deemed appropriate to ensure patron and community safety and deter unauthorized access to the premises.

8. No products shall be displayed in the Marijuana Establishment’s windows or visible from any street or parking lot.

9. Industry Best Management Practices shall be utilized to control odors inside and outside all types of Marijuana Establishments. No odors from marijuana or its processing shall be
detectable by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining property or use.

10. Waste disposal shall be in accordance with the CCC Regulations and State and local regulations. No composting of waste materials may occur at the Marijuana Establishment. Outside storage of general solid waste not containing any usable marijuana shall be screened with a locked fence. Solid waste containing any usable marijuana shall be stored inside a designated locked, limited-access area located inside the main structure. Liquid waste from processing or disposal of marijuana shall not be discharged to surface waters or groundwater or septic systems or municipal sewer systems. Liquid waste must be stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: Industrial Wastewater Holding Tanks and Containers.

7.3.D. LOCATION

1. ZONING DISTRICTS – For information on the zoning districts where marijuana establishments may be located, refer to the Marijuana Establishments subsection of Section 5.0, Intensity and Dimensional Regulations,

2. MARIJUANA RETAILER USES SEPARATION DISTANCES – No Marijuana Retailer may be located within 1000 feet of properties within the Commercial District and within 500 feet of properties located within the Industrial District and the Commercial/Industrial Park District Commercially Zoned properties of the real property of the following:

   (a) pre-existing public or private school providing education of kindergarten or any grades 1 through 12,
   (b) pre-existing preschools;
   (c) pre-existing licensed daycare center;
   (d) public playgrounds;
   (e) public libraries; and,
   (f) pre-existing State certified educational centers serving children 17 years of younger.

3. MARIJUANA – OTHER USE SEPARATION Distances – No Craft Cultivator Cooperatives, Marijuana Cultivators, Marijuana Product Manufacturers, and Marijuana Testing Facilities may be located within 500 feet of the real property comprising the following:

   (a) pre-existing public or private school providing education of kindergarten or any grades 1 through 12,
   (b) pre-existing preschools;
   (c) pre-existing licensed daycare center;
   (d) public playgrounds;
   (e) public libraries; and,
   (f) pre-existing State certified educational centers serving children 17 years of younger.

4. MEASUREMENT OF DISTANCE – The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Sections 7.3.D.2. and 7.3.D.3 above to the nearest point of the property line of the proposed Marijuana Establishment.
7.3.E. **APPLICATION PROCESS AND REQUIREMENTS**

1. **APPLICATION PROCEDURES** – The application for a Special Permit for a Marijuana Establishment shall be filed at a regularly scheduled Planning Board meeting and with the Town Clerk in accordance with Zoning Bylaw Section 10.7 and with G.L. c. 40A § 9. The application shall be signed by a duly authorized officer of the Applicant.

2. **REQUIRED DOCUMENTS** – The Applicant shall provide the SPGA with 15 copies of the application and the required fees. All plans and maps shall be prepared, stamped, and signed by a professional engineer or architect licensed to practice in Massachusetts. An application to the SPGA shall include, at a minimum, the following information:

   (a) the Applicant’s name, address, telephone number, and email address;
   (b) evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
   (c) a certified copy of the provisional license issued by the CCC to the Applicant, along with copies of all other materials issued by the CCC to the Applicant, except for those materials that are deemed by the CCC to be confidential and therefore subject to the public records exemption;
   (d) a narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to, cultivating and processing of marijuana or marijuana products as defined in G.L. c. 94G, § 1, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities;
   (e) a map depicting all properties and land uses within a 1000 foot radius (minimum) of the project site, whether such uses are located in Kingston or within surrounding communities, including, but not limited to, all educational uses, daycare, preschool, and afterschool programs, playgrounds, libraries, public parks, houses of worship, and housing facilities owned by a public housing authority;
   (f) a plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of parking, the location of pedestrian 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 any landscape design;
   (g) a plan or plans showing any proposed stormwater management system, which plan(s) shall meet the submission requirements of Kingston’s Stormwater Management Rules and Regulations;
   (h) architectural drawings of all exterior building facades and all proposed signage,
   (i) specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are strongly recommended, but not required;
   (j) a written Energy Use/Environmental Plan demonstrating best practices for energy conservation to ensure that there are no undue impacts on the natural environment; the plan shall include proposed energy and water conservation measures, including use of energy efficient lighting where appropriate, measures for controlling odors and effluent, and measures for disposal of solid waste;
   (k) traffic impact report;
   (l) a Security Plan, to be submitted to the Police Department only, including all security...
measures for the site and for transportation of marijuana and marijuana products to and from off-site premises. The Security Plan shall include a site plan showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc., which seek to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity; and,

(m) a description of waivers, if any, from the CCC Regulations issued for the Marijuana Establishment.

3. **Plan Referral** – Within 5 business days of the receipt of the application, the SPGA shall refer copies of the application to the Building Commissioner, the Conservation Commission, the Board of Health, the Fire Department, and the Police Department. These boards/departments shall review the application and shall submit their written recommendations to the SPGA. Failure to make recommendations within 30 days of referral of the application shall be deemed lack of opposition.

4. **SPGA Action** – After notice and public hearing and consideration of application materials, public comments, and the recommendations of other Town boards and departments, the SPGA shall act upon the application.

### 7.3.F. Decision Criteria

1. **Findings** – The SPGA shall issue a special permit for a Marijuana Establishment only if it finds that the Applicant has submitted sufficient information from which it can conclude that:

   (a) the Marijuana Establishment has received a provisional license from the CCC as required in Section 7.3.E.2(c) above and complies with all applicable state and local laws, regulations, and requirements, including, but not limited to, health and safety regulations, and construction and environmental requirements;

   (b) the building and site have been designed to be reasonably compatible with other buildings in the area;

   (c) the siting of the Marijuana Establishment shall be accomplished so as to minimize any adverse impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11, including but not limited to compliance with the following:

      i. proper location in accordance with the distance and location requirements in Section 7.3.D. above;

      ii. design which ensures sufficient buffering, except to the extent that any part of such buffering is contrary to state law and the CCC Regulations;

      iii. design which minimizes visual impacts, noise, odors, and light pollution or other undue nuisance;

      iv. design which creates no hazard or congestion;

      v. design which shields loading and service areas; and,

      vi. design which ensures adequate waste disposal of products containing usable marijuana that does not adversely impact the environment or water resources.

   (d) the Marijuana Establishment will create no substantial harm to the established or future character of the neighborhood or town;

   (e) with due consideration to aesthetics, the Marijuana Establishment is designed to ensure...
convenient, safe and secure access as follows:

i. personal safety of those working at or utilizing the facility;
ii. personal safety for clients and invitees;
iii. loading and service areas are designed to be secure; and,
iv. protection of the premises from theft.

(f) the Applicant has not provided materially false documents or testimony;
(g) the Applicant has satisfied all of the conditions and requirements of the Zoning Bylaw.

7.3.G. SPECIAL PERMIT CONDITIONS

1. REASONABLE CONDITIONS – The SPGA shall impose conditions reasonably appropriate to improve siting, design, placement, traffic flow, and 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 Bylaw. In addition to any specific conditions applicable to the Marijuana Establishment, the SPGA shall include the following conditions in any special permit granted under this Bylaw:

(a) within 24 hours of creating an Incident Report required by the CCC Regulations, the permit holder shall file a copy of said Incident Report with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA. Such reports may be redacted as necessary to comply with any and all applicable laws and regulations;
(b) 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 a hearing, or final action issued by the CCC or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA, within 48 hours of receipt by the Marijuana Establishment; and
(c) the permit holder shall provide to the Board of Selectmen, the Zoning Enforcement Officer, the SPGA, the Police Chief, and the Fire Chief the name, telephone number, and email 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.

7.3.H. ADDITIONAL SPECIAL PERMIT CONSIDERATIONS

1. CONFORMANCE – Special permits shall conform to the following:

(a) the Special Permit shall be limited to the current Applicant(s), shall become invalid if the permit holder ceases operating the Marijuana Establishment, and shall not transfer with a change in ownership of the business and/or property;
(b) the Special Permit shall become invalid upon the expiration or termination of the applicant's CCC license or the failure of the Applicant to receive a final license from the CCC;
(c) the permit holder shall notify the Board of Selectmen in writing, with copies to the Zoning Enforcement Officer, the Police Department, and the SPGA, within 48 hours of the cessation of operation of the Marijuana Establishment, notice by the CCC of denial of a
final license, or the expiration or termination of the permit holder’s CCC license; and  
(d) in the event that the CCC revokes, fails or refuses to issue a final license to the Marijuana  
Establishment, a Special Permit issued by the Town for the Marijuana Establishment shall  
be deemed null and void.

2. **Prohibition Against Nuisances** – The Marijuana Establishment shall not create a nuisance to  
abutters or to the surrounding area, or create any hazard, including, but not limited to, fire,  
extlosion, 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.

3. **Conflicts with State Law and Regulations** – If any provision, paragraph, sentence, or clause  
of this Bylaw shall be determined to be in conflict with applicable State Law or Regulations,  
the provisions of said State Law or Regulations shall prevail.

4. **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.

### 7.4 Adult Uses

#### 7.4.A. General Requirements

1. **Overview** – Adult Uses are permitted in the Commercial/Industrial Park District by special  
permit. The Zoning Board of Appeals shall be the special permit granting authority. Adult uses  
are defined in Section 2.0. DEFINITIONS.

2. **Compliance** – Adult uses shall comply with the intensity requirements of the  
Commercial/Industrial Park District as found in Section 8.2.A.; the Considerations for  
Approval of a Special Permit set forth in Section 10.7.B.; and the following requirements:

   (a) A 500-foot minimum separation is required from existing residential districts.
   (b) A 2,500-foot minimum separation between different or any other adult uses is required.
   (c) A 500-foot minimum separation is required from:
      i. a public way or a way which the Town Clerk certifies is maintained and used as a  
         public way;
      ii. a constructed way shown on a plan approved and endorsed with the subdivision  
          control law; or
      iii. a way in existence when the subdivision control law became effective in the Town in  
          which the land lies.
   (d) A 1,000-foot minimum setback is required from educational uses, public parks, public  
       recreation facilities, and religious uses.
   (e) A 500-foot minimum setback is required from any establishment licensed under the  
       provisions of G.L. c 138.
   (f) A 100-foot vegetative buffer containing adequate screening shall be provided between  
       adult uses and abutting residential districts.

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(g) A 20-foot vegetative buffer containing adequate screening given the character of the neighborhood and the intensity of the use shall be provided between adult uses and abutting commercial use.

(h) No special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, § 63 or G.L. c. 272, § 28.

7.5 RESIDENTIAL DEVELOPMENT ENCOURAGING OPEN SPACE (RDEOS), PLANNED RESIDENTIAL DEVELOPMENT (PRD), DEVELOPMENT WITH SIGNIFICANT PUBLIC BENEFIT (DSPB), and PLANNED RESIDENTIAL DEVELOPMENT FOR SENIORS (PRDS)

7.5.A. Purposes

1. KINGSTON MASTER PLAN – The purpose of Section 7.5 is to reflect the goals, policies and proposals of the Kingston Master Plan including the Land Use, Housing, Natural and Cultural Resources, and Community Facilities and Services elements. Those goals, policies, and proposals include but are not limited to the following:

(a) to allow for greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is not greater than what is allowed in the district;

(b) to encourage the permanent preservation of open space areas for the conservation of natural resources, outdoor recreation, park purposes, or public access to open space, in conjunction with residential development;

(c) to facilitate the provision of streets, necessary utilities and community services in a more efficient and economical manner;

(d) to encourage the preservation, and minimum disruption, of the existing natural and man-made features of land and to minimize impacts on environmentally sensitive areas and to protect the integrity of eco-systems and natural resources; ensuring the protection of water bodies and supplies, wetlands, floodplains, agricultural lands, wildlife, wildlife habitats, species diversity, forests and other natural resources;

(e) to encourage a less sprawling form of development that consumes less open land;

(f) to ensure that the development of additional housing does not detract from the livability, scale, character or economic value of existing residential neighborhoods;

(g) to encourage greater diversity and to provide greater choices of housing opportunities to meet the needs of a population which is diversified with respect to the varying needs of town residents in different stages of life, the number of persons in a household, and income;

(h) to encourage the development of affordable housing;

(i) to provide greater flexibility and design freedom in the development of those tracts of land which lend themselves to planned development;

(j) to promote a high standard in the design of development sites and of individual buildings;

(k) to ensure that such development will not create adverse impacts in the community;

(l) to preserve historically or architecturally significant buildings or places;

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(m) to permit ostensibly different types of structures and residential uses to be combined in a planned interrelationship;
(n) to facilitate a detailed review by town officials and by the public;
(o) to assure that the number of dwelling units allowed will be consistent with surrounding land uses, and that traffic and public services will not be adversely impacted;
(p) to allow flexibility in the standards and procedures for residential developments that are Residential Development Encouraging Open Space (RDEOS) or Planned Residential Development (PRD) and that promote an improved design relationship between new buildings and public facilities and common open space.

7.5.B Special Permit Requirements

1. **REGULATIONS FOR RDEOS, PRD, AND PRDS** – In the R-40 Districts and R-80 Districts, the following regulations shall apply to any grant of a special permit for Residential Development Encouraging Open Space (RDEOS), Planned Residential Development (PRD) as well as Planned Residential Development for Seniors (PRDS) as may be authorized by the Planning Board pursuant to Section 10.0., Administration, and pursuant to approval of a Definitive Plan in accordance with the Planning Board Subdivision Regulations. The application shall be reviewed in accordance with the standard set forth in G.L. c. 40A, § 9; this Bylaw; and the Rules and Regulations promulgated by the Planning Board for granting of a Definitive Plan.

2. **REGULATIONS FOR DSPB** – Developments with Significant Public Benefit (DSPB) are subject to the above and are permitted only in the Residential 40 District. In addition, due to the importance to the Town of Kingston of Water Resource Districts, aquifer recharge areas, and Zone II areas and the significant public benefit afforded by these areas no density bonuses for Development with Significant Public Benefit (DSPB) are permitted in the Residential 80 District.

7.5.C. PROCEDURE

1. **INTENT** – The procedure for a Residential Development Encouraging Open Space (RDEOS), Planned Residential Development (PRD), or a Development with Significant Public Benefit (DSPB) is not intended to be used as an alternative to allow the construction of a conventional subdivision that could not otherwise comply with the standards and requirements set forth in this Bylaw or in the "Rules and Regulations Governing the Subdivision of Land."

2. **DENSITY** – The permitted density of a Residential Development Encouraging Open Space (RDEOS) and Planned Residential Development (PRD) is the same as the underlying zoning. one dwelling unit per acre of developable site area in the R-40 zone and 0.5 dwelling units per acre of developable site area in the R-80 zone. Developments with Significant Public Benefit (DSPB) and the associated density bonuses are permitted only in the R-40 zoning district. Density bonus associated with DSPB which are permitted only in the R-40 zone can achieve a maximum density bonus of 1.5 dwelling units per acre of developable site area only with the provision of affordable housing units and other defined significant public benefits as described in Section 7.5.H. below.
7.5.D. Definitions

Development with Significant Public Benefit (DSPN) – A RDEOS or a PRD is a development option in which the Planning Board has determined that there are sufficient benefits to the adjacent neighborhood and/or the Town generally to warrant a density bonus. The Planning Board may grant a density bonus of up to 10% for each qualifying public benefit with a maximum density bonus of 50% with inclusion of affordable housing units. The maximum density bonus of 50% cannot be reached without the provision of affordable housing.

Development with Significant Public Development (DSPB) – A DSPB is a development option in which the Planning Board has determined that there are sufficient benefits to the adjacent neighborhood and/or the Town generally to warrant a density bonus. Due to the public benefit of protecting aquifer recharge areas, Water Resource Districts and Zone II areas a development with significant public benefit (DSPB) shall not be permitted in Residential-80 Districts.

Planned Residential Development (PRD) – A PRD is a unified residential development in which a tract of land is divided into (a) one or more lots for constructing dwellings in one or more groups and (b) common open space. A PRD may have one or more lots used for developments in (a) condominium ownership, (b) cooperative ownership, or (c) single ownership with individual rented dwelling units.

Planned Residential Development Subdivision – Within a PRD dwelling units may include:

(a) Dwelling single family detached – A detached structure containing one dwelling unit intended and designed to be occupied by a single-family.
(b) Dwelling, single family attached (duplex) – A building containing two dwelling units attached to each other by a common vertical wall, each dwelling unit having open space on or yards on three sides and each dwelling unit having direct access to the ground.
(c) Dwelling, accessory apartments – A second dwelling unit either in or added to an existing single family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory unit for cooking, eating, sanitation, and sleeping. Such a unit is an accessory use to the main dwelling. A separate special permit as called for in Section 5.2, Table of Uses, under the category of “One accessory housing unit within a single family detached dwelling” is not required if permitted by special permit for RDEOS, PRD, or DSPB. Size requirements as stated in Section 5.2, “One accessory housing ...” are required.
(d) Dwelling, townhouse – A building containing 3 or 4 dwelling units in a row in which each dwelling unit has its own front and rear access to the ground, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated by from any other dwelling unit by one or more party walls.

Planned Residential for Seniors (PRDS) – A PRDS is a unified, self-contained residential retirement community, expressly for and specifically limited to use and residency by persons who are 55 years of age or older. It includes one or more types of residential dwellings, undertaken in accordance with an overall plan, incorporating a consistent architectural concept and incorporating the preservation of natural areas within the development.

PRDS Community Center – A PRDS community center is a structure erected solely for the use of
residents of the PRDS and their guests. The Community Center shall contain at a minimum, kitchen and separate toilet facilities for men and women and may contain dining areas, game rooms, entertainment rooms, library, laundry facilities, meeting rooms, exercise rooms, locker rooms and/or pool, all of which shall be designed and maintained in conformance with the latest Massachusetts’ standards for accessibility for the handicapped.

**Residential Development Encouraging Open Space (RDEOS)** – A RDEOS is a development in which single-family dwelling units are clustered together into one or more groups on the lot and the clusters are separated from each other and adjacent properties by permanently protected open space. Each individual property shall have access from the rear or side portion of the lot to this open space.

**Residential Development Encouraging Open Space Subdivision (RDEOS) Subdivision** – This subdivision is a residential development in which a tract of land is divided into: (1) lots for constructing dwellings in one or more groups and (2) common open space. The common open space may be in one or more locations and may separate groups of dwellings from each other.

### 7.5.E. Dimensional Requirements

1. **Developable Site Area** – The developable site area for developments subject to Section 7.5 shall be calculated by subtracting, from the lot area, all land which is located in:

   (a) wetlands areas as defined in Town of Kingston Wetlands Protection Bylaw or G.L. c 131, § 40 and pertinent regulations including but not limited to any bank, riverfront area, freshwater wetlands, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on ocean or on any estuary, brook, creek, river, stream, pond or lake or any land under said waters or any land subject to tidal action, coastal storm flowage or flooding or area under Coastal Zone Management; or

   (b) another zoning district in which the principal use of the lot is not also permitted.

2. **Table of Dimensional Standards and Requirements:**

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>Dimensional Standard</th>
<th>Dimensional Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RDEOS</td>
<td>PRD</td>
</tr>
<tr>
<td>Minimum area of tract to qualify for development (Sq. Ft.)</td>
<td>435,600</td>
<td>871,200</td>
</tr>
<tr>
<td>Minimum continuous frontage of tract on an existing public street (in feet)</td>
<td>500</td>
<td>500</td>
</tr>
<tr>
<td>Minimum yard setback on perimeter of tract (in feet)</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>Minimum yard setback within development</td>
<td>NR*</td>
<td>NR*</td>
</tr>
<tr>
<td>Maximum impervious surface ratio (%) (Including bldg. and pavement)</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Minimum common open space (%)</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Minimum usable open space per dwelling unit or equivalent (Sq. Ft.)</td>
<td>5,000</td>
<td>5,000</td>
</tr>
</tbody>
</table>

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## Dimensions

<table>
<thead>
<tr>
<th>Dimensional Standard</th>
<th>Dimensional Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum height of dwellings (in feet)</td>
<td>35 35 35 35</td>
</tr>
<tr>
<td>Maximum height of dwellings (in stories)</td>
<td>2.5 2.5 2.5 2.5</td>
</tr>
</tbody>
</table>

NR*= No Requirement

### 7.5.F. OPEN SPACE: COMMON AND USABLE

1. **PURPOSE**

   (a) Common open space is intended to provide open, natural areas on a site for the general use of most, or all, the occupants of a residential development. It is intended to provide for the active and passive recreational use and visual enjoyment of the occupants of a residential development and, in some cases, for residents of the adjacent neighborhood and the public generally. (See the definition of Development of Significant Public Benefit in Section 7.5.B).

   (b) Usable open space is intended to provide outdoor space for the recreational and leisure time use of, and in close proximity to, the occupants of dwelling units in a residential development with three or more dwelling units.

2. **RELATIONSHIP BETWEEN USABLE AND COMMON OPEN SPACE** – Common open space will qualify as usable open space provided it meets the criteria set forth in Section 7.5.G.3. Usable open space will qualify as common open space provided it is not on a privately owned lot, or on a space designated for the exclusive use of one dwelling unit.

3. **REQUIREMENT** – Where required or provided, common open space shall be land that:

   (a) may be in one or more parcels of a size and shape appropriate for the intended use;

   (b) meets the requirements for developable site area as that term is used in Section 7.5.E.1;

   and,

   (c) all occupants of a development have the right to use.

4. **COMMON OPEN SPACE OWNERSHIP AND MANAGEMENT**

   (a) Common open space in any Residential Development Encouraging Open Space shall be conveyed to:

   i. the Town, and may be accepted by it for use as open space, conservation, recreation, or park lands;

   ii. a nonprofit corporation, the principal purpose of which is the conservation of open space; or

   iii. a corporation or trust owned or to be owned by the owners of lots within the development. If a corporation or trust owned by the owners of lots is utilized, ownership of open space shall pass with the conveyances of the lots. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be provided, including a recordable easement and recordable covenant, that

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such land shall be kept in an open or natural state and shall not be built upon for residential use or developed for accessory uses such as parking or roadway.

(b) If the common open space is not to be conveyed to the Town, then the applicant shall include as part of the covenant, a provision that the common open space will be deeded to one of the above entities as approved by the Planning Board. In addition, the covenant shall not be released until proof of approved open space ownership has been provided to the Planning Board.

(c) If the common open space is not to be conveyed to the Town, the applicant for a Residential Development Encouraging Open Space special permit must include a program describing how the common open space will be maintained in perpetuity to standards satisfactory to the Planning Board. The applicant shall also provide as part of the common open space proposal an easement empowering the Town to maintain the common open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence providing that, if the Town is required to perform any maintenance work, the owners of lots within the Residential Development Encouraging Open Space shall be liable to pay the cost thereof and that cost shall constitute a lien upon their properties until said cost has been paid.

5. **ACCESSORY PARKING OR STRUCTURES** – A maximum of 20% of common open space may be devoted to parking for use of the open space or structures used for, or accessory to, active outdoor recreation, provided such parking or structures are consistent with the open space uses of such land.

6. **AMOUNT OF USABLE OPEN SPACE REQUIRED** – The minimum amount of usable open space provided shall be as set forth in the schedule in Section 7.5.E.2, Dimensions Table.

7. **QUALIFYING USABLE OPEN SPACE**

(a) Usability. The area must have a surface that is adequately drained and allows for recreational or leisure time use. Such surface may include any combination of grass, plant materials, wood, or paving materials of a type designed for pedestrian or recreational use. No open space shall be considered usable if:
   i. the slope of the finished grade is more than 10% unless the slope is left in its natural undisturbed state that minimizes the potential for erosion and possible sedimentation into watercourses and waterbodies;
   ii. the land does not meet the requirements for developable site area as that term is defined in Section 7.5.E.1.

(b) Location. The nearest part of the area shall be not more than 300 feet walking distance from the dwelling unit it serves. Usable open space may be located in an area which:
   i. is on a privately owned lot, or a space designated for the exclusive use of one dwelling unit;
   ii. qualifies as common open space as provided in Section 7.5.E.

(c) Size and Shape. It has a minimum horizontal area of 600 square feet and no dimension is less than 20 feet.

(d) Structures and Facilities. It shall be open to the sky and may include unroofed facilities such as a tennis court, swimming pool, or similar open air recreational facilities. Accessory structures related to such unroofed facilities may be located within the area.

(e) Access. The access to usable open space shall conform to the same standards set forth in
Section 7.5.F.7(a) but may have dimensions smaller than those set forth in 7.5.F.7(c). If the dimensions of the access are smaller than those required in 7.5.F.7(c), the access shall not be counted toward the minimum usable open space required in Section 7.5.E.

7.5.G. Criteria for Approval of a Residential Development Encouraging Open Space (RDEOS) or Planned Residential Development (PRD).

1. Criteria – Prior to the approval of a Residential Development Encouraging Open Space (RDEOS) subdivision or a Planned Residential Development (PRD), in addition to the findings and determinations required by under a special permit with site plan review, the Planning Board shall determine that the proposed development meets the following criteria:

(a) the common open space includes:
   i. some, or all, of the outstanding natural features of the site and of the manmade features that enhance the landform;
   ii. land that also meets the standards for usable open space; and,
   iii. land that increases visual amenities for residents of the development and/or of the adjacent neighborhood.

(b) the common open space is readily accessible by one or more paths or entry points specifically designed for access purposes;

(c) the dwellings are sited and oriented in a complimentary relationship to:
   i. each other;
   ii. the common open space; and,
   iii. the adjacent properties. If the development includes different types of dwellings, such as semi-attached dwellings or townhouses, those types of dwellings shall relate to the predominant characteristics of the adjacent single family detached dwellings with respect to scale, mass, setback, proportions and materials.

(d) negative visual impacts of the development, if any, are screened from adjacent properties and nearby streets by landscaping or other site planning techniques;

(e) where opportunities exist, improved access is provided to, or additional links and connections are developed to, a town system of public facilities, such as open space, recreation facilities, footpaths, bicycle paths or multi-use trails;

(f) that any building which contains more than one dwelling unit is designed so that either:
   i. the building has the exterior appearance of a single family dwelling; or,
   ii. alternatively, if single-family attached dwellings and/or townhouses are constructed, each individual dwelling unit has direct access to ground level and an opportunity for a private yard, patio, or other private outdoor space.

(g) there are provisions for common facilities, such as recreation or parking, or for services such as the maintenance of streets, walkways, paths, or multi-use trails, utilities, landscaping, or recreation facilities.

2. Special Permits, Dimensional Standards, Waivers, Types of Housing – The Planning Board, acting as Special Permit Granting Authority (SPGA), may, as part of the grant of a special permit with site plan review, also grant a special permit to:

(a) modify the standards below all of the above as they may apply to individual dwellings or lots within Residential Development Encouraging Open Space (RDEOS) subdivision or a Planned Residential Development (PRD);
i. in Section 8.0, Intensity and Dimensional Regulations, for minimum lot area, minimum lot frontage, minimum front yard, minimum side yard, minimum rear yard, maximum percentage of site coverage, and maximum height in stories;
ii. the provisions of Section 8.1.A.2, relative to the number of principal buildings on a lot;
iii. the minimum frontage requirement in Section, 8.2.A., 8.2.D., and 8.2.E.
iv. the provisions in Section 7.5.E.1, relative to contiguous developable site area;
v. in Section 9.2, relative to the location of off-street parking spaces;
vi. in Section 9.2 and Regulation of the Planning Board Governing the Design Construction and Maintenance of Off-Street Parking and Loading Areas relative to setbacks required for parking spaces and driveways; and
vii. in Section 8.2.G. relative to the subdivision of land in relation to lots or buildings that are nonconforming or would not comply with this Bylaw as a result of the proposed development;

(b) permit the types of buildings identified in Section 7.5.D. definition of Planned Residential Development Subdivision, as allowed by special permit;

(c) allow an existing structure, that was constructed at least 10 years prior to the date of application for approval of the special permit, to be converted to a three- or four-family dwelling, a multi-family dwelling, an independent living residence, an assisted living residence, or a congregate living facility, provided the Planning Board determines that:
   i. the structure can be modified for a residential use that does not have adverse impacts on the adjacent single family neighborhood;
   ii. the exterior character of the structure is maintained and is consistent with the adjacent neighborhood of single-family dwellings;
   iii. modification of the existing structure maintains more of the site open than the alternative of removal of the structure and further subdivision of the lot into house lots;

(d) allow a driveway on one lot to lead to a parking space on another lot, or to allow a driveway to straddle a lot line, as provided in Rules and Regulations Governing the Subdivision of Land.

3. COMMON OPEN SPACE – In granting a special permit with site plan review for a planned residential development, the Planning Board may require a greater amount of common space than the minimum required. In making that determination, the Planning Board shall consider the need to protect the natural resources and features of the site, the type of housing to be constructed and its relationship to common open space, and potential public access to and use of the open space.

4. ACCESSORY APARTMENT IN RESIDENTIAL DEVELOPMENT ENCOURAGING OPEN SPACE SUBDIVISION (RDEOS) OR A PLANNED RESIDENTIAL DEVELOPMENT (PRD) – If an accessory apartment is included in a dwelling, in a Residential Development Encouraging Open Space Subdivision (RDEOS) or a Planned Residential Development (PRD), it may be considered in the calculation of the density for the development.

7.5.H. Developments with Significant Public Benefit (DSPB)

1. OBJECTIVES – The objectives of this section are to allow additional flexibility in the standards and procedures for approval, to provide incentives for applicants to propose a development
with significant public benefit and to:

(a) encourage the provision of more public facilities and services that benefit the adjacent neighborhood and the town generally;
(b) encourage types of housing that meet the needs of age groups, income groups, or persons with special needs, that are not adequately served by large single family dwellings;
(c) encourage a greater degree of review of the design features of a residential development;
(d) require a higher qualitative standard of building design and in the provision of public facilities and open space;
(e) further the objectives set forth in Section 7.5.A than would otherwise apply in the administration of zoning and subdivision regulations in the following manner:

i. The Planning Board may grant a density bonus of up to 10% for each qualifying public benefit with a maximum density bonus of 50% with inclusion of affordable housing units.
ii. The maximum density bonus of 50% cannot be reached without the provision of affordable housing.
iii. An applicant is not entitled to the maximum development nor is the applicant entitled to approval of a Residential Development Encouraging Open Space (RDEOS), a Planned Residential Development (PRD), a Development with Significant Public Benefit (DSPB) or a Planned Residential Development for Seniors (PRDS).
iv. The amount of development permitted will be based on the Planning Board’s evaluation of the proposed development and the extent to which it reflects the goals, objectives, and recommendations of the Kingston Master Plan.
v. Due to the public benefit of protecting aquifer recharge areas, Water Resource Districts and Zone II areas, a Development with Significant Public Benefit (DSPB) shall not be permitted in Residential-80 (R-80) Districts.

2. **Significant Public Benefit Defined**

(a) Qualifying Significant Public Benefit. A significant public benefit shall be a benefit to the adjacent neighborhood and/or the Town generally as determined by the Planning Board. In general, a qualifying public benefit shall be:

i. improvements in the adjacent neighborhood similar to the required improvements on the site -- such required improvements being those identified elsewhere in this Bylaw or in Section 5.0 of the Rules and Regulations Governing the Subdivision of Land, such as, but not limited to, any facility, infrastructure, or restriction on the development of land in relationship to the development of land and buildings;
ii. improvements on the site that are, in the opinion of the Planning Board, well in excess of those otherwise required;
iii. restrictions on, or special design or development features of, uses and buildings permitted in the zoning district.

(b) Significant Public Benefit. A significant public benefit may be one or more of the following as determined by the Planning Board after consultation with the board, committee, commission, department or official indicated and such others as the Planning Board may determine:
i. preservation of a historic structure or place -- with the Historical Commission;

ii. protection of integrity of eco-systems and natural resources and open land that is dry and otherwise developable, and potentially an important addition to the inventory of open space in the town -- with the Conservation Commission and the Open Space Committee. All of such open land shall be accessible to the public. The type of private homeowners association reserve, allowed in section 7.5.F.4., from which the public could be excluded, shall not qualify;

iii. provision of public recreation facilities - with the Recreation Committee;

iv. installation of paths or multi-use trails to provide pedestrian and bicycle access to open space or other public facilities in the adjacent neighborhood -- with the Recreation Committee, Open Space Committee, and the Conservation Commission;

v. placement underground of electric power lines and communication lines, such as, but not limited to telephone, fiber optic, security alarm and cable TV lines;

vi. provision of affordable units for moderate-income households -- with Kingston Housing Authority, and as applicable, the Council on Aging;

vii. provision of housing units that are set aside for affordable housing:
   a. Ten percent of the total dwelling units are set aside for affordable housing, defined as units affordable to households with incomes at or below 80 percent of the median household income in the Boston Metropolitan Statistical Area as determined by the latest U.S. Census or as adjusted based on the formulas in use by the Massachusetts Executive Office of Housing and Economic Development which is on file with the Planning Board.
   b. The increase shall not exceed 20% of the number of units otherwise allowed.
   c. The exterior appearance of the affordable units is consistent with the style of the market rate units in the development.
   d. There is provision satisfactory to the Planning Board and enforceable by the Town that the units will be sold or leased at costs and be subject to occupant income limitations to assure that the units remain affordable. The Planning Board may impose reasonable conditions on the length of occupancy, resale, phasing and site development on the affordable units.

viii. provision of housing units that are of a size or type that meet the needs of segments of the town’s population that, due to age or special needs, are not adequately served by large single family dwellings and the then current housing stock within the Town, such as Planned Residential for Seniors (see Section 7.5.I.)

ix. provision of facilities for alternate transportation services that do not rely on the use of single occupant automobiles. The alternate transportation services may include a financial contribution to a service provided by the Town of Kingston, or a service provided by others and coordinated by the Town;

x. provision of transportation facilities, such as a sidewalks, paths, multi-use trails, or traffic engineering improvements -- with the Highway Department, the Recreation Committee or the Open Space Committee;

xi. provision of a utility or underground facility, including but not limited to water service, sanitary sewer service, storm water management systems, or expansion in the capacity of an existing facility or system -- with the Water Commission or Sewer Commissioners.

(c) Improvements Benefiting Adjacent Neighborhood. Qualifying improvements shall generally include those that benefit the adjacent neighborhood and or the Town generally or are provided on the site. If the Planning Board first determines that the type of
improvements listed in Section 7.5.H.(2) are not needed or cannot be provided in the adjacent neighborhood, or on the site, the Planning Board may consider instead a financial contribution to one or more Town funds established for the purposes listed in Section 7.5.H.(2).

(d) Improvements Not Qualifying as Significant Public Benefit. A significant public benefit shall not include any required improvement identified elsewhere in this Bylaw or in Section 5.0 of the Rules and Regulations Governing the Subdivision of Land, such as, but not limited to, any facility, infrastructure, or restriction on the development of land in relationship to the development of land and buildings. A waiver from the requirements of the Rules and Regulations Governing the Subdivision of Land or of the usual requirements of this Bylaw for a conventional subdivision shall not be considered to be a significant public benefit.

3. Criteria for Approval – Prior to the approval of a Development with a Significant Public Benefit, the Planning Board shall determine, in addition to the findings and determinations required by Sections 7.5.G., 7.5.H, and 7.5.I.,

4. Criteria for Approval of a Residential Development Encouraging Open Space (RDEOS), a Planned Residential Development (PRD), a Development with Significant Public Benefit (DSPB) or a Planned Residential Development for Seniors (PRDS), that the proposed development meets the following criteria:

(a) that there are sufficient benefits to the adjacent neighborhood and/or the town generally to warrant an increase in the maximum development permitted; and

(b) that legally binding documents have been submitted to ensure the completion and continued availability of any proposed improvement or special condition that qualifies as a significant public benefit.

5. Special Permits, Types of Housing, Dimensional Standards, Waivers – The Planning Board, acting as Special Permit Granting Authority (SPGA,) and as part of the grant of a special permit with site plan review to approve a development with significant public benefit, may also grant any of the special permits described in Section 7.5.G.2.

6. Common Open Space – The public shall have access to all common open space in a Development with Significant Public Benefit. The provisions of Section 7.5.F.4(a) that allow exclusion of the public shall not apply in a Development with Significant Public Benefit.

7.5.I. Planned Residential Development for Seniors (PRDS)

1. Purpose and Meanings of Terms

(a) Purpose. The purpose of PRDS is to provide alternative housing for residents who are 55 years in age or older.

(b) Meaning. A PRDS is unified, self-contained residential retirement community, constructed expressly for and specifically limited to use and residency by persons who are 55 years of age or older, and including one or more types of residential dwellings, undertaken in accordance with an overall plan, incorporating a consistent architectural concept and incorporating the preservation of natural areas within the development.

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2. **General Requirements**

(a) Any PRDS shall contain a minimum area of not less than 20 acres, of which at least 10 acres constitute a developable site as defined in Section 7.5.E.1., exclusive of any and all easements or covenants restricting in any way the use of said minimum area.

(b) Any person who resides in a PRDS shall be 55 years in age or older.

(c) Covenants or Deed Restrictions, reviewed by Town Counsel and accepted by the Planning Board shall provide that the dwelling units of the PRDS shall be occupied by persons 55 years of age and older except for guest visiting for short durations not to exceed 30 days in a calendar year.

(d) The maximum number of dwelling units in any specific PRDS shall not exceed 4% of the total number of dwelling units in the Town as shown on the records of the Board of Assessors for the year in which the application is filed.

(e) Any PRDS shall be served by a minimum of 2 access roads or drives unless a divided access road or drive is approved by the Planning Board.

(f) Any PRDS containing town houses shall have a continuous vegetated buffer of not less than 50 feet around the entire development.

(g) Any PRDS shall contain a Community Center for the use, recreation, and enjoyment of the residents of the PRDS that is at a minimum, a gross floor area equivalent to 100 square feet for each dwelling unit in the PRDS. However in lieu of such Community Center, the Planning Board may authorize the substitution of some other public facility or service benefiting PRDS and the adjacent neighborhood and the Town generally, costing the applicant an amount equal to the documented cost of such Community Center.

(h) Building permits may be issued for 20% of the dwelling units in a PRDS prior to the construction of the Community Center or providing for the substitute public facility or service, if applicable. However, no additional building permits shall be issued until construction of said Community Center has been completed, or the substitute public facility or service provided for, to the satisfaction of the Planning Board.

(i) Dwelling units may be all single family, all duplex, or all town house units providing that no town house unit contains more than 10 dwelling units per structure. A mix of units is also permitted provided that no one dwelling type shall constitute more than 60% nor less than 30% of the total number of dwelling units.

(j) All dwelling units shall be constructed on site. No dwellings or dwelling units shall be of pre-fabricated, factory made, or modular construction, including but not limited to mobile homes, modular homes or manufactured homes.

(k) Each dwelling unit shall have a minimum of 2 sides of full exterior exposure.

(l) Each dwelling unit shall have a view of the common open space.

(m) Each dwelling unit containing 4 or more dwelling units shall be equipped with a fire protection residential sprinkler system approved by the Kingston Fire Department.

(n) Individual dwelling units shall not contain more than 2 bedrooms per unit.

(o) Home occupations, taking in of boarders, or the renting of rooms shall not be allowed nor permitted.

7.5.J. **Special Permits: Procedure and Criteria**

1. **Special Permit with Site Plan Review (SPS) Required.**

   (a) No residential development subject to this Bylaw shall be initiated without first obtaining
a special permit with site plan review in accordance with the provisions of this section and Section 10.7. The purpose of the special permit with site plan review is to provide detailed review of residential developments which have a substantial impact upon the character of the Town, adjacent residential areas, and the provision of public facilities and services.

(b) A special permit with site plan review is a type of special permit in which a use, or one or more buildings that comprise a development, may be permitted if the proposed development of the site meets certain criteria, standards or conditions as set forth in Section 7.3, and to other standards and objectives as set forth in this section. The SPGA may, in its discretion, grant a special permit with site plan review but only in those cases where this Bylaw specifically refers to the granting of a special permit with site plan review and only in those cases where the SPGA makes a finding and determination, as set forth in Section 7.7.

(c) An applicant is not entitled to a special permit with site plan review and the SPGA, in its discretion, may decline to grant a special permit with site plan review if it is unable to make a positive finding and determination as required in Section 9.7.

2. SPECIAL PERMIT GRANTING AUTHORITY (SPGA) – The Planning Board shall be the Special Permit Granting Authority for all residential development governed by Section 7.5. In acting upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of Sections 7.5, 7.6, and 10.7.

3. SPECIAL PERMIT APPLICATION REQUIREMENTS – The application to the SPGA for a special permit with site plan review under this section shall be accompanied by a site plan, an existing conditions plan, and a conceptual subdivision plan where the Planning Board is the SPGA, as the Planning Board may describe in its Development Regulations. A definitive subdivision plan may be submitted rather than a conceptual plan. Where the applicant submits a definitive subdivision plan complying with the Subdivision Control Law and the Planning Board's "Development Regulations", insofar as practical, the public hearing on the application for the special permit with site plan review and the definitive subdivision plan shall be held concurrently.

4. PROCEDURES FOR SPECIAL PERMITS AND SPECIAL PERMITS WITH SITE PLAN REVIEW –

(a) Information Required for Application. The application to the SPGA for either special permit or a special permit with site plan review, for Residential Development Encouraging Open Space (RDEOS), Planned Residential Development (PRD), Development with Significant Public Benefit (DSPB) or Planned Residential Development for Seniors (PRDS) shall be accompanied by the following materials, if applicable:

i. a site plan;
ii. a plot plan, showing the location of all buildings and structures on the lot including existing conditions and proposed changes, if applicable. In the case of a building or structure which is, or is proposed to be, close to a minimum yard setback line, the SPGA may require submittal of a certified plot plan;
iii. an off-street parking and loading plan;
iv. a landscaping plan;
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v. a copy of the determination of applicability issued by, or of a Notice of Intent filed with, the Conservation Commission pursuant to Kingston General Bylaws and G.L. c. 131, § 40;

vi. a traffic study, and a proposal for mitigating measures to improve capacity or for trip reduction programs, if any;

vii. proposals for mitigating measures or the construction of improvements to deal with the impacts, other than traffic impacts, of the proposed development or to provide sufficient capacity in Town facilities or services; any other material necessary for the SPGA to make the findings and determinations required by Bylaw or as may be required by the written rules of the SPGA;

(b) The term “application” as used in this section shall include the accompanying materials described in i. through vii. above.

(c) Upon written request from the applicant prior to the filing of an application, the SPGA may waive the submission of such information, plans, studies, or analyses, or parts thereof, as may not be needed for, or germane to, consideration of the application.

(d) In the event a person seeks a special permit under more than one provision of Section 7.5 as part of one building or site development proposal, they shall file an application that clearly identifies each provision of the Bylaw for which such special permit is sought. The SPGA may issue notice, conduct a hearing and issue a decision in a concurrent manner that does not require a separate application, notice, hearing, and decision on each special permit, provided that it clearly identifies the separate provisions of Section 7.5 for which each special permit is sought or granted. In the event a person seeks a special permit and a variance as part of one building or site development proposal, they shall file a separate application for each, and a separate decision shall be rendered for each.

5. Special Permit Provisions. The SPGA may grant a special permit with site plan review for the development of a tract of land in a residential district provided it makes a determination that the proposed development is consistent with the standards and criteria set forth in Sections 7.5.G.2 and 7.5.H.5., subject to the following provisions:

(a) the special permit shall incorporate by reference the building design and definitive site development plans filed with the application for a special permit;

(b) that, where applicable, the special permit shall incorporate by reference, any legally binding document that has been submitted to ensure the completion and continued availability of any proposed improvement or special condition; and,

(c) The SPGA may require that the amount of development be less than that shown on the definitive site development plan if it determines that the criteria contained in Sections 7.5.G.2., and 7.5.H.5., so require.

6. Denial of Special Permit. The SPGA may deny an application for a special permit with site plan review hereunder and base its denial upon:

(a) a failure to comply with the provisions set forth in Section 7.5.; or

(b) a finding that the proposed development would not be consistent with the general objectives for planned residential development set forth in Section 7.5.A., or the criteria set forth in Sections 7.5.G.2., or 7.5.H.5.; or

(c) a failure to conform with the goals, objectives, and recommendations of the Kingston Master Plan.

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7.6 MULTIPLE DWELLINGS

7.6.A. PURPOSE AND INTENT

1. PURPOSE – The purpose of Section 7.6 is to provide for the construction of multiple residences and/or multiple dwelling complexes in districts to which this section applies. The approval of a preliminary site plan, the issuance of a special permit, and the subsequent approval of a definitive plan by the Planning Board is required. A special permit hereunder is only an authorization for a specific use and does not exempt that particular parcel of land from conformance with the Zoning Bylaw, unless specified hereunder or in said permit, or from conformance with the Planning Board Subdivision Regulations.

2. INTENT – It is intended that any complex proposed hereunder will have buildings or groups of buildings placed on individual lots, which in turn have continuous frontage on a public or private way. Subsequent approval by the Planning Board and other appropriate Town Boards or Departments will be required as set forth in the Planning Board Subdivision Regulations including approval of street, utility, and sanitary disposal systems, whether or not the subject proposal is a subdivision as defined by the Subdivision Control Law.

7.6.B. PROCEDURE

1. Before approval of the special permit, a preliminary site plan shall be submitted and approved in accordance with the provisions of Section 10.3., Site Plan Review.

2. If the application and site plan are approved, the applicant shall submit a “Definitive Site Plan” to the Planning Board in accordance with the Planning Board Subdivision Regulations.

3. In addition to the criteria listed in Section 10.3.D., the Planning Board shall consider the extent to which the proposed development conforms with sound land use principles and design. Violation of these principles may be grounds for disapproval of the plan, even though all other requirements are met.

7.6.C. GENERAL REQUIREMENTS

1. The minimum area for any Multiple Dwelling development shall be 5 acres.

2. Dimensional regulations shall meet the requirements of the following Table:

<table>
<thead>
<tr>
<th>Minimum Lot Dimensions</th>
<th>Maximum Lot Averag e Bldg. (%)**</th>
<th>Minimum Open Space (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area (sq. ft.)</td>
<td>Frontal Bldg. Yard (ft.)</td>
<td>Bldg. Length (ft.)</td>
</tr>
<tr>
<td>40,000*</td>
<td>200</td>
<td>50</td>
</tr>
</tbody>
</table>

---

Town of Kingston MA Zoning Bylaw
November 2019
 SECTION 7 – SPECIAL USE REGULATIONS

* plus 10,000 sq. ft. for each dwelling unit over 3 dwelling units
** including accessory buildings

3. If there is more than one building on a single lot, (for a definition of a Lot, see Bylaw Section 2.2 Defined Terms, under the Lot Related Terms category) there shall be a minimum of 50 feet between such buildings. No building shall be located closer than 100 feet of an existing paved Town way.

4. Off-street parking shall be provided in accordance with Section 9.2.A., Required Parking. Parking areas shall not be located within 25 feet of the side and rear lot lines and 100 feet of an existing paved Town way. No on-street parking will be permitted.

7.7 COMMUNICATIONS TOWERS AND WIRELESS COMMUNICATIONS FACILITIES

7.7.A. PURPOSE

The purpose of Section 7.7 is to establish appropriate siting criteria and standards for wireless communications towers and facilities, while minimizing adverse impacts on adjacent properties and residential neighborhoods, minimizing the overall height of such facilities to only what is essential, and promoting the shared use of existing facilities to reduce the need for new facilities. Section 7.7 does not apply to satellite dishes and antenna for residential use.

7.7.B. GENERAL REQUIREMENTS

1. SPECIAL PERMIT REQUIRED – No wireless communications facility shall be erected or installed except in compliance with the provisions of Section 7.7. In all cases, a special permit is required from the Zoning Board of Appeals. Any proposed extension in height, addition of cells, antenna or panels, or construction or replacement of a facility shall be subject to a new application for a special permit.

2. ZONING DISTRICTS – Wireless communications facilities may be allowed by special permit on land located in both the Industrial District (I) and Commercial/Industrial Park District (C/I). Wireless communications antennas, including panels, may be mounted on or attached to existing structures, including but not limited to water towers and church steeples, in any district. All wireless communications facilities must be designed and screened as required by Section 7.7.D.1.(d)

3. PREFERRED LOCATION – Whenever possible, wireless communications facilities shall be located in the 2 non-residential zoning districts described in Section 7.7.B.2., above, and shall be suitably screened from abutters and residential neighborhoods.

4. TYPE OF FACILITIES ALLOWED – Only free-standing monopoles, with associated antenna and/or panels are allowed as specified in Section 7.7.D. Lattice style towers and similar facilities requiring three or more legs and/or guy wires are not allowed. Wireless communications panels may be facade-mounted on existing structures such as water towers and church
steeples provided that they be properly screened and conform to applicable design guidelines set forth in Section 7.7.D.

5. **Removal** – Structures shall be removed within one year of cessation of use. If applicable, annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute and required maintenance shall be filed with the Building Commissioner by the special permit holder.

6. **Amateur Radio Operator** – Nothing contained herein shall be deemed to prohibit construction or use of an amateur structure by a Federally licensed amateur radio operator.

7. **Stealth Technology** – Upon issuance by the site plan reviewing authority and the special permit granting authority of a finding that a proposed antennae or other wireless communication equipment would blend with the natural surroundings and show no evidence of being a communication facility, a special permit may be granted to allow the proposed antennae or equipment in any non-residential district or area, provided that all dimensional requirements are satisfied.

### 7.7.C. Application Procedure

1. **Submission Information** – The following information shall be submitted with the application for a wireless communication facility and tower.

   (a) A locus plan at a scale of 1” = 1,000’ which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods, and all buildings within 500 feet of the facility.

   (b) A color photograph or rendition of the proposed monopole with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the monopole from the nearest street or streets.

   (c) The following information prepared by one or more professional engineers:

      i. a description of the monopole and the technical, economic and other reasons for the proposed location, height and design;

      ii. confirmation that the monopole complies with all federal and state standards; and,

      iii. 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.

### 7.7.D. Design Guidelines

1. The following guidelines shall be used when preparing for the siting and construction of wireless communications facilities:

   (a) All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole.

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(b) No monopole, or attached accessory antenna on a monopole, shall exceed 120 feet in height as measured from ground level to the top of the highest point of the structure. Co-location (in other words, more than one carrier locating on a monopole) shall occur if possible, for all monopoles. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings.

(c) No monopole shall be located closer than 1.3 times the height of the structure from any dwelling. A building or structure containing communication equipment adjacent to a communication tower shall comply with the applicable provisions of section 7.7. but shall be exempt from the 1.3 fall zone requirement, provided that said building or structure is not used as a dwelling.

(d) All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighborhoods and other areas of Town shall be as limited as possible. All monopoles shall be painted or otherwise colored so that they will blend in with the landscape or the structure on which they are located. A differing coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.

(e) Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.

(f) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town.

(g) There shall be no signs, except for those required by the FCC, and a no trespassing signs and a required sign giving a phone number where the pole owner can be reached on a 24-hour basis. All signs shall conform with Section 9.4. signs.

(h) Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration (FAA).

(i) Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

(j) There shall be a minimum of parking space for each facility, 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.

(k) Applicants proposing to erect facilities on municipally owned land and structures shall provide evidence of contractual authorization from the Town of Kingston to conduct wireless communications services on municipally owned property.

7.7.E. PROCEDURE FOR A SPECIAL PERMIT

1. APPROVAL – Applications for special permits shall be approved or approved with conditions if the petitioner can fulfill the requirements of Section 7.7.B., and 7.7.D., to the satisfaction of the Zoning Board of Appeals, and the Consideration for Approval of special permits defined in Section 10.7.B.

2. DENIAL – Applications for special permits under Section 7.7 may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.

3. CONSIDERATIONS – When considering an application for a wireless communications facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed use(s).

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SECTION 8 – INTENSITY and DIMENSIONAL REGULATIONS

SECTION 8 INTENSITY AND DIMENSIONAL REGULATIONS

8.1 APPLICATION

8.1.A. GENERAL REQUIREMENTS

1. A dwelling, building, or any structure hereafter constructed or altered in any district shall not be located on a lot having less than the minimum requirements, except as hereinafter provided.

2. There shall be only one principal building on a lot, except as hereinafter provided.

3. A lot or parcel of land containing 2 or more dwellings existing at the time of adoption of this Bylaw which cannot be divided in conformity with these requirements may, under a special permit by the Planning Board, be divided in a manner complying as closely as possible with these requirements.

4. Notwithstanding the provisions of Section 8.2.A., increased requirements respecting minimum lot area and frontage shall not apply to a lot for single-family residential use, whether or not held in common ownership with adjoining land, provided that:
   (a) the lot was created under the Subdivision Control Law;
   (b) the lot conformed to all dimensional requirements of the Zoning Bylaw in effect at the time the lot was created; and,
   (c) the lot contains at least 20,000 square feet (for further information see Section 8.2.F.)

5. Increases in front, rear, or side yard dimensional requirements shall not apply to existing dwellings, provided that the following minimum yard setbacks are maintained:
   (a) minimum front yard of 25 feet;
   (b) minimum side yards of 15 feet; and,
   (c) minimum rear yard of 20 feet.

8.2 DIMENSIONAL REQUIREMENTS

8.2.A. INTENSITY SCHEDULE

No building shall be erected unless in conformance with the requirements of the Intensity and Dimensional Requirements Table on the next page.
### Intensity & Dimensional Table

<table>
<thead>
<tr>
<th>District ↓</th>
<th>Minimum Lot Size</th>
<th>Max. Height</th>
<th>Max. Lot Coverage by Bldg.</th>
<th>Min. Open Space</th>
<th>Minimum Yard Setback¹ (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lot Area in Square Feet</td>
<td>Continuous Frontage in Feet</td>
<td>Feet</td>
<td>%²</td>
<td>%</td>
</tr>
<tr>
<td>Conservancy</td>
<td>80,000</td>
<td>100</td>
<td>15</td>
<td>10</td>
<td>75</td>
</tr>
<tr>
<td>Industrial District</td>
<td>40,000³</td>
<td>250</td>
<td>40</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Commercial/Industrial</td>
<td>40,000⁵</td>
<td>250</td>
<td>40</td>
<td>50</td>
<td>25</td>
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<tr>
<td>Commercial</td>
<td>40,000</td>
<td>200</td>
<td>35</td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>Town Center</td>
<td>10,000</td>
<td>80</td>
<td>40</td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>Residential M Mobile Home Park</td>
<td>8,000⁴</td>
<td>70</td>
<td>15</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Residential 80</td>
<td>80,000</td>
<td>200</td>
<td>35</td>
<td>25</td>
<td>50</td>
</tr>
<tr>
<td>Residential 40</td>
<td>40,000</td>
<td>200</td>
<td>35</td>
<td>25</td>
<td>50</td>
</tr>
<tr>
<td>Residential 20</td>
<td>20,000⁶; 30,000⁶</td>
<td>100</td>
<td>35</td>
<td>25</td>
<td>40</td>
</tr>
<tr>
<td>3A Design District</td>
<td>30,000</td>
<td>150</td>
<td>35</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>3A Design District</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MCOD</td>
<td>40,000⁵</td>
<td>200</td>
<td>55</td>
<td>50</td>
<td>25</td>
</tr>
</tbody>
</table>

1 Fences and flagpoles are allowed in the required front, side, and rear yards.
2 Includes accessory buildings.
3 Per building or use. Where and if the lots abuts a residential district, the minimum side yard setback is 50 feet.
4 Per mobile home unit. The minimum area of a mobile home park shall be 50 acres. See Section 7.7.
5 Single-family dwelling.
6 Two-family dwelling.

### 8.2.B. LOT AREA

In all districts, no more than 15% of the required lot area, as defined in Section 8, shall consist of slope over 25% or wetlands, as defined in G.L. c.131, §.40. The area consisting of 15% of land with a slope above 25%, and wetlands within the lot lines shall be excluded from the buildable area of the lot. The remaining area shall be that on which the building will be situated shall be...
contiguous and the wetlands included within the lot lines shall not cross, dissect or otherwise interfere with this area. No part of the required lot area, as defined in this Section 8, shall consist of land under water.

**8.2.C. LOT DIMENSION EXCEPTIONS**

Increased requirements respecting lot area, frontage, width, yard, and similar dimensions provided in this Bylaw or amendments thereto shall be subject to the exceptions provided in G.L. c. 40A, § 6, and shall not apply to a lot for single- and two-family residential structure which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements and had less than the proposed requirements but had at least 5000 square feet of area and 50 feet of frontage.

**8.2.D. LOT FRONTAGE**

The frontage of all lots shall be measured in a continuous line along the street right-of-way as defined under “Subdivision” in G.L. c. 41, § 81L from the intersection of one side lot line to the intersection of the other side lot line of the same lot.

**8.2.E. EXCEPTION FOR BACK LOTS**

1. In R80, R40, and R20 zoning districts, on a parcel of land that cannot be subdivided under the provisions of G.L. c. 41, § 81P, the Planning Board may approve a single back lot under said section provided that:

   (a) Said lot can be laid out with at least 20 feet of frontage on an existing way as defined under “Subdivision” in G.L. c.41, § 81L.

   (b) The lot contains at least 3 times the minimum lot area for the zoning district in which it is located.

   (c) The lot is not distorted in configuration as to prevent or hinder access by emergency vehicles and personnel.

   (d) The primary access strip to the lot, a minimum of 20 feet in width, shall be through a driveway over the lot itself.

2. The lot shall be shown on a plan showing the boundaries of the proposed lot, and of abutting lots as they appear on the most recent Assessors Map(s).

3. The 20 foot strip shall provide access to the back lot and shall not provide access to any lots in the subdivision unless the proposed subdivision is in compliance with the provisions of these Bylaws and the Planning Board Subdivision Rules and Regulations applicable to lots and ways.

**8.2.F. FRONT YARDS**

The minimum front yard setback dimensions required in the Intensity & Dimensional Requirements Table are to be measured from the street line where a plan of the street is on file with the Registry of Deeds, or, in the absence of such a plan, from a line parallel to and twenty-five feet from the apparent centerline of the traveled way or street.

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8.2.G. SIZE REDUCTION OF LOTS WITH BUILDINGS

No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with lot area, width, setback, or yard provisions of this Bylaw, or, if such building or lot already fails to comply with said provisions, the reduction or change would bring about a greater degree of non-compliance with said provisions. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

8.2.H. CORNER CLEARANCE

In all districts, no building shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines 50 feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents. In addition, no other type of structure, no foliage, shrubbery, or other planting, and no open display, storage, or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility across the corner.

8.2.I. LOT CONFIGURATION

1. The mean direction of the side lot lines shall be as close as possible to perpendicular to the street line or to this tangent at the point of intersection of the side lot line. In no case shall the direction of the side lot line form an angle of less than 75 degrees with the street or the aforesaid tangent.

2. Lots which are so distorted in configuration as to be detrimental to public health, safety, welfare, or convenience, even though complying with the dimensional requirements established herein, shall not be permitted.

8.2.J. SETBACK REQUIREMENT FROM WATER BODIES

In any district, no part of a sewage disposal system for any new construction shall be within 100 feet of the normal spring high water level of any Great Pond, pond, stream, brook, river, swamp or wetland.

8.2.K. BUILDING PROJECTIONS INTO SETBACK AREAS AND ABOVE ROOFS

Nothing herein shall prevent the projection into any required setback area or yard of cornices, eaves, sills, or ornamental features not over 3 feet in width, or of steps of uncovered porches not over 3 feet in height above average finished grade, and nothing herein shall prevent the projection above a roof of chimneys or antenna, or of steeples, domes, towers or similar projections not used for human occupancy.

8.2.L. COMMERCIAL AND INDUSTRIAL USES ON LOTS ABUTTING PRIVATE DWELLINGS

1. When commercial and industrial structures are erected or placed on lots abutting existing dwellings within a Town Center, Commercial or Industrial District, or within an adjacent Residential District, there shall be established and maintained on said lot(s) a dense screen.
of evergreen trees or tall shrubs or an opaque stockade fence not less than 4 feet nor more than 6 feet in height, nor less than the height required to screen objectionable features. All areas where refuse is gathered shall be adequately screened from view from the street or adjacent dwellings.

2. On side lines, said dense screen shall begin as near the line of the street as the foundation of either dwelling or commercial or industrial structure, whichever is nearest, and shall extend along the side lot line a distance of not less than 35 feet, but not less than the full length of the business structure. On the rear lot line, said screen shall extend the distance necessary to screen from the view of abutting residences.
SECTION 9 GENERAL PROVISIONS

9.1 ACCESSORY BUILDINGS AND USES

9.1.A. USE REGULATION

An accessory use is a use of land or building on the same lot with, and customarily incidental but secondary to a permitted use except that if more than 30% of the gross floor area or 50% of the lot area is occupied by the accessory use, it shall no longer be considered “accessory.”

9.1.B. DIMENSIONAL REGULATION

No accessory building or structure shall be located within the required front yard setback area. No accessory building shall be located in any side yard area nearer to the side lot line than 10 feet, or in a rear yard nearer to the lot line than 5 feet. In no case shall accessory buildings cover more than 25% percent of the total rear yard area.

9.2 OFF-STREET PARKING REQUIREMENTS

9.2.A. REQUIRED PARKING

1. Provision of Parking – All parking demand for new structures or uses, additions to existing structures or uses, and changes of use in existing structures shall be met entirely off-street and on the same premises as the activity it services or located within 300 feet of the building entrance on a separate parcel. The separate parcel shall not be separated by an arterial, collector, or sub-collector street and shall be located in a zoning district allowing such activity.

2. Minimum Parking Requirements – The following minimum requirements shall be met, unless these are reduced by a special permit from the Planning Board upon determination that special circumstances render a lesser provision adequate for all parking needs.

<table>
<thead>
<tr>
<th>Parking Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use</td>
</tr>
<tr>
<td>Manufacturing, processing, or wholesaling</td>
</tr>
<tr>
<td>Medical or dental office or clinic</td>
</tr>
<tr>
<td>Office, or professional business</td>
</tr>
<tr>
<td>Places of assembly</td>
</tr>
</tbody>
</table>
### Parking Requirements

<table>
<thead>
<tr>
<th>Use</th>
<th>Requirements</th>
</tr>
</thead>
</table>
| Pre-school/Day care facilities           | a) 1.0 space/faculty member who is required to be present at the facility pursuant to the facility's state license based upon the maximum number of children for which the facility is licensed.  
b) 1.0 parking or queuing space/every 4 children based upon the maximum number of children for which the facility is licensed.  
c) Pick-up and drop-off areas, not requiring the parking of vehicles, may be provided whenever safe to do so. |
| Public buildings                         | 1.0 space/333 square feet of gross floor area                               |
| Residential                              | 1.5 spaces/dwelling unit with 2 or bedrooms or fewer;  
2.0 spaces/dwelling unit with 3 bedrooms or more;  
All spaces are to be located within 300 feet of the dwelling unit |
| Restaurant                               | 1.0 spaces/every 3 seats                                                   |
| Retail or commercial business or Personal business establishment | 1.0 space/250 square feet of gross leasable floor area                      |
| Other – Use categories to be determined by the Planning Board or the Building Commissioner, as appropriate, whenever Site Plan review is required by the Planning Board or Building Commissioner | Parking requirements shall be determined by the Planning Board or Building Commissioner as appropriate. |
| Other – Where Site Plan Review is not required | Parking requirements shall be determined by the Planning Board or the Building Commissioner, as appropriate. |

### 9.2.B. LOCATION OF PARKING AREAS

1. Except in the Residential M, Mobile Home Park District, no off-street parking area shall be located within 20 feet of a street line or within 10 feet of all other property lines.

2. No parking area shall be located or designed so as to allow backing onto or off a public way.

### 9.2.C. DEVELOPMENT AND MAINTENANCE OF PARKING AREAS

1. For parking areas of 6 cars or more the following shall apply:

   (a) Off-street parking areas shall be designed and constructed in accordance with The Regulations of the Planning Board Governing the Design, Construction, and Maintenance of Off-Street Parking and Loading Areas.

   (b) There shall not be more than one entrance and one exit from parking lots per 300 feet of street frontage or fraction thereof. If necessary to meet this requirement, uses shall be arranged for shared egress and ingress.

2. Parking areas must be so located, and parking so designed, that egresses to be used for more than 200 trips per day, serving more than 40 dwelling units or 80 employees or 40 restaurant seats or one gas pump shall provide 400 feet visibility in both directions of a street.
9.3 OFF-STREET LOADING REQUIREMENTS

9.3.A. REQUIRED OFF-STREET LOADING

Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures.

9.3.B. DEVELOPMENT AND MAINTENANCE OF OFF-STREET LOADING FACILITIES

1. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so.

2. Off-street loading areas shall be designed and constructed in accordance with The Regulations of the Planning Board Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas.

9.4 SIGNS

9.4.A. PURPOSE

The purpose of Section 9.4 is to promote the public safety, protect property values, create an attractive business climate, and enhance the physical appearance of the community.

9.4.B. GENERAL REQUIREMENTS

1. SIGN MAINTENANCE – All signs together with their supports, braces, guys, and anchors shall be kept in good repair and in safe condition. The owner of the premises on which a sign is erected shall be directly responsible for keeping all signs and premises around them in a safe, sanitary, neat, and clean condition.

2. ILLUMINATION – Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and shall be designed, located, erected, and maintained only for the purposes of illuminating the subject sign and/or premises. The illumination of signs shall be permitted only between 7:00 am in the morning and 11:00 pm in the evening, except during any hours the establishment may be open to the public.

9.4.C. SIGNS PERMITTED IN ALL DISTRICTS

The following signs are permitted in all districts provided they meet Section 9.4.A. Purpose

1. One non-illuminated non-commercial sign not to exceed 3 square feet in area nor 8 feet in height.

2. One temporary non-illuminated real estate sign pertaining to the lease, sale, or use of a lot or building on which such sign is placed not exceeding a total area of 6 square feet.
3. One sign for identification of professional and home occupations, or of the occupant, not exceeding a total area of 3 square feet.

4. A marker not to exceed 2 square feet identifying a historic building.

5. Street numbers and any sign erected by a Town, State or Federal Government.

6. A sign erected by a public carrier for direct information concerning its service at the location.

7. Signs and displays associated with an approved stand for the retail sale of agricultural or farm produce not exceeding 12 square feet in total area.

8. A sign erected by any fraternal, civic, religious, or service organization or club, merely announcing its presence in the Town of Kingston and the time and place of its regular meeting, provided that the sign shall not exceed 3 feet in diameter nor 9 square feet in area.

9. Any flag, badge, insignia or device of any governmental agency or civic, charitable, religious, patriotic, political, fraternal or similar non-profit organization when displayed along a line of march of any parade, or in sockets along any street during a fund raising drive.

10. A temporary construction sign is permitted in any district provided the sign is non-illuminated, does not exceed 32 square feet in area, identifies an engineer, architect, and/or contractor engaged in the development of land or construction or alteration of buildings and further provided such sign is set back at least 10 feet from any street line and is removed upon completion of construction.

9.4.D. SIGNS PERMITTED IN RESIDENTIAL DISTRICTS, 3A DESIGN DISTRICT, AND CONSERVANCY DISTRICTS

The following signs are permitted in all Residential Districts, the 3A Design District, and the Conservancy District:

1. One non-illuminated or indirectly illuminated identification sign for each separate street line of an approved special permit use. This sign shall be subject to the applicable side and rear yard requirements for principal buildings and shall be set back a minimum of 50% of the applicable front yard setback requirement for principal buildings. The height of the sign shall not be greater than the distance it is located from any lot line, and the square foot area of the sign shall not be greater than ½ the linear foot distance it is located from any lot line; however, in no case shall the sign exceed 16 square feet in area nor 8 feet in height.

2. Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designated and approved as an integral part of the Site Plan Review for an allowable special permit use.

9.4.E. SIGNS PERMITTED IN TOWN CENTER DISTRICT AND COMMERCIAL DISTRICT

The following signs are permitted in the Town Center District and Commercial District provided they meet general requirements of Section 9.4.A, Purpose.

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1. One sign advertising goods and services available on the premises, not exceeding one square foot for every linear foot of store frontage and in no case exceeding a total area of 36 square feet per lot.

2. One sign for identification of the business, company, or agency on a wall or parapet of a main building. The sign shall exceed 30 square feet for each separate business in the Commercial District.

3. For the purpose of identifying the business or commercial development or shopping center, one free-standing sign with a total of 36 square feet of area for each street on which the business or commercial development or shopping center fronts.

4. For the purpose of advertising the sale or lease of the premises, a sign not to exceed 32 square feet in signboard area.

5. A sign attached to a building shall not:
   
   (a) project more than one foot from the building wall when the building bounds on a lot line.
   (b) project into or over the paved portion of a street or a right-of-way.
   (c) exceed the height of the building.

9.4.F. SIGNS PERMITTED IN THE INDUSTRIAL DISTRICT AND THE COMMERCIAL/INDUSTRIAL PARK DISTRICT

The following signs are permitted in the Industrial District and the Commercial/Industrial Park District, provided they meet general requirements of Section 9.4.A, Purpose.

1. Two signs pertaining to each establishment or occupancy in a building or office the total area of which shall not exceed 200 square feet, provided that:
   
   (a) One of these signs may be free standing which shall not exceed 15% of the area of the building face or 60 square feet, whichever is smaller.
   (b) In the case of an open-air use with no building, one free standing sign not exceeding 60 square feet shall be permitted for each 100 feet of lot frontage on the street on which the use has direct frontage.

9.4.G. SIGN PROHIBITIONS

1. The prohibitions contained in this Section shall apply to all signs, all artificial lighting, and all districts, regardless of designation.

2. No permitted sign, including projecting signs, shall be located in any street right-of-way.

3. No sign or advertising device shall be erected, used, or maintained which in any way simulates official directional or warning signs erected or maintained by Federal, State, or Town Governments for the protection of the public health and safety.

4. No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street or driveway.

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5. No sign or advertising device shall be erected or maintained with any lighting or control mechanism which may cause radio or television interference.

6. No illumination sign or lighting device shall be placed or directed on any property in a manner that would permit the light beams and illumination therefrom to be directed or beamed onto a right-of-way or walkway, or onto adjoining properties so as to cause glare or reflection that might constitute a traffic hazard or public nuisance.

7. No animated sign or advertising device shall be erected.

8. No flashing signs or advertising device which creates intermittent or varying light intensity shall be erected.

9. No sign shall extend more than 12 inches beyond the building walls or parts thereof, except as otherwise provided in these sign regulations.

10. No roof signs shall be erected.

11. No building or part thereof, such as a gable, roof, or wall, shall be outlined by direct illumination for the purpose of commercial advertising.

12. No sign shall be attached to or be erected or maintained in a manner as to obstruct any fire escape, window, door, or other building opening used for egress and ingress, ventilation, or other firefighting purpose.

13. No sign whose content does not relate exclusively to the premises on which it is located, or to products, accommodations, services, or activities on those premises shall be allowed, except as otherwise provided in Section 9.4.E, Signs Permitted In Town Center District and Commercial District.

14. No free-standing sign shall be erected to exceed a height of 30 feet.

15. There shall be no temporary signs, banners, streamers, or placards erected, suspended, posted, or affixed in any manner outdoors on a building exterior or premises except those granted by right upon written application to the Building Commissioner. Temporary signs shall not exceed a period of 60 days.

### 9.5 PERFORMANCE STANDARDS

#### 9.5.A. ADMINISTRATION AND INTERPRETATION

All proposed uses of buildings, lots, or premises within any Zoning District shall conform to the standards contained in Section 9.5.

1. The applicant, at their own expense, shall furnish evidence sufficient to satisfy the Zoning Enforcement Officer that the proposed use of the building or premises will not produce any
nuisances beyond the lot lines as measured by the performance standards listed in Sections 9.5.B. through 9.5.M. or as existing in comparable operations allowed in the District.

2. Any nuisance produced in excess of the standards permitted in Sections 9.5.B. through 9.5.M. or any other nuisance found after review by the Zoning Enforcement Officer in the course of his or her normal enforcement procedure to be excessive shall be reduced to acceptable standards or discontinued.

9.5.B. **AIR POLLUTANTS**

Except as is herein provided, all use and conditions of land, buildings, and structures shall be in conformance with the Regulations 310 CMR 6.00 - 8.00 of the Department of Environmental Protection, Commonwealth of Massachusetts.

9.5.C. **NOISE**

1. No noise shall be in excess of 60 decibels at any lot line opposite or abutting a Residential 80, Residential 40, Residential 20, or Residential M District nor in excess of 90 decibels at any other line.

2. In a Residential 80, Residential 40, Residential 20, or Residential M District, noise shall not exceed 60 decibels between the hours of 8:00 P.M. and 7:00 A.M. At all other times, noise shall not exceed 60 decibels for more than 20 minutes in each hour.

3. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, or high frequency.

9.5.D. **HEAT, GLARE, AND VIBRATION**

No heat, glare or vibration shall be discernible without instruments from the outside of any structure.

9.5.E. **WASTE DISPOSAL, WATER SUPPLY AND WATER QUALITY**

Regulations of the Department of Public Health, Commonwealth of Massachusetts, shall be met and when required by The Zoning Enforcement Officer, approval shall be indicated on the application for a Building Permit.

1. In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control, as published and entitled 314 CMR 4.00: Massachusetts Surface Water Quality Standards for streams and water bodies within the Town.

2. Materials used on the exterior or cleanup of structures or vehicles or of any equipment shall be disposed of in accordance with the regulations of the Board of Health.
9.5.F. STORAGE

All materials, supplies, and equipment shall be stored in accordance with the Fire Prevention Standards of the National Fire Protection Association.

9.5.G. EXTERIOR LIGHTING

1. No exterior lighting, other than street lighting approved by the Department of Public Works, shall shine on adjacent properties or toward any street.

2. Exterior illumination of buildings or grounds in a Residential 80, Residential 40, Residential 20, and Residential M District, except as may be permitted for required parking areas, shall:
   (a) be permitted only for non-commercial uses open to the public, such as a religious institution or playground; and,
   (b) be shown on a site plan approved by the Zoning Enforcement Officer.

3. Any lighting shall be continuous and non-flashing.

9.5.H. BUILDING CONSTRUCTION

1. All buildings shall be of construction prescribed in the State Building Code.

2. No building permit shall be granted unless the application for such permit is filed in accordance with the State Building Code.

9.5.I. HAZARDOUS AND TOXIC MATERIALS

1. No use shall be allowed which would create clear or unlawful hazards through emission of dangerous elements into the air, in any water body, or on the ground; through vehicular egress at points of constricted visibility; through use of storage of toxic, hazardous, inflammable, radioactive, or explosive materials without evidence of compliance with all applicable regulations; or through lack of security measures to prevent exposure to potentially hazardous structural or site conditions.

2. All hazardous materials used, created, stored, processed, or disposed of by processing, diluting, burying, containment, leaching or any other manner, or transported (including piping) in the Town shall be used, stored, or transported in accordance with all applicable Federal, State and Local regulations.

3. A notice for use, creation, storage, processing, disposal, and transport shall be filed with the Board of Selectmen, the Fire Department, the Board of Health, and the Water Commissioners on such forms as they shall require and shall meet the following requirements:
   (a) Notification shall include, at a minimum, identification of material, the amount involved, the process, if any, and the routes of transport, carrier, and conveyance, if any.
   (b) The Board of Selectmen may require a bond be posted to cover any and all possible damages to person, property, and environment.
9.5.J. **Erosion Control**

1. Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped.

2. No use shall be allowed if it will leave the earth exposed for greater than 14 days, unless erosion control measures are employed.

3. No use shall be allowed which will damage or harm adjoining properties, waterways, or public utilities through uncontrolled erosion and sedimentation.

9.5.K. **Dish Antennae**

Accessory dish antennae shall be located in the rear yard, shall be set back at least 10 feet from all property lines, principal buildings, and accessory buildings, and shall not have a diameter greater than \( \frac{1}{3} \) of the required rear yard.

9.5.L. **Electrical Interference**

No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

9.5.M. **Fencing Screening and Landscaping**

1. Boundary fences, walls, or hedges are permitted provided they do not exceed 6 feet in height, and that no fence or hedge that obstructs vision shall exceed 36 inches in height within 20 feet of the street line or within 12 horizontal feet of a habitable room in an abutting dwelling.

2. Open storage, loading, or service areas, mobile home parks, and parking lots for 6 or more cars shall be screened from adjacent residences or a public way by a wall, fence, or densely planted trees or shrubs at least 3 feet in height, or be equivalently obscured by natural vegetation.

3. Except as required for municipal waste pick-up and removal, junk, trash, or debris shall be stored so as not to be visible from adjacent properties or any street.

4. No more than 50% of required front yard shall be covered by impervious surfaces. Except for walkways, driveway, and walls, impervious surfaces shall not be located within 10 feet of the right-of-way line.

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9.6 **Swimming Pools**

9.6.A. **General Requirements**

1. Pools used for swimming or bathing shall be in conformance with all applicable and pertinent State and local codes, rules, and regulations, including MA 780 CMR 120.

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2. Private swimming pools shall not be allowed in any front yard area and shall not be located less than 12 feet from the side and rear property lines.

3. Plans shall be filed with the Commissioner of Building and shall be accurately prepared by a registered professional engineer or registered land surveyor and shall indicate dimensions of the pool with respect to the lot, septic system, and structures located on the lot.

4. Every person owning land on which there is situated a swimming pool shall erect and maintain an adequate fence or wall either surrounding the property or pool area, in accordance with MA 780 CMR 120.

5. If an in-ground pool is to be constructed, the contractor or owner shall state where the excess fill is to be used or location where it will be disposed. If the excess fill is to be removed from the property, permission must be first granted by the Board of Selectmen, in accordance with all applicable local bylaws and regulations.

6. No pool shall be filled without first notifying the Water Department 24 hours in advance and only then with the approval of the Water Commissioners or Superintendent shall the swimming pool be filled. The swimming pool may be subject to filling under the supervision of the Water Commissioners or Superintendent.

7. The treatment and cleaning of swimming pools are subject to the Massachusetts State Sanitary Code and the rules and regulations of the Kingston Board of Health.

8. The swimming pool and equipment shall be equipped to be completely emptied of water and the discharged water shall be disposed of in a manner approved by the Board of Health that will not create a nuisance to abutting property.

9.7 RESIDENTIAL DEVELOPMENT SCHEDULING

9.7.A. PURPOSE AND INTENT

It is the intent and purpose of this Bylaw to regulate the timing of development in residential subdivisions and other developments in a manner that promotes the health, safety, convenience, and welfare of the inhabitants of Kingston. It is the intent of this section to regulate the rate at which residential construction occurs without imposing undue economic burden on those involved in housing development. Residential development scheduling will insure that periods of accelerated residential growth will not disrupt the Town of Kingston’s long-term capital improvement process nor adversely affect public safety or general welfare of Town residents. This Bylaw has the following purposes:

1. To promote a manageable growth rate in Kingston and reduce extreme fluctuations in the Town’s growth rate.

2. To prevent the development of traffic conditions that are hazardous to pedestrian and vehicular travel.

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3. To allow development to proceed in a manner that allows a proper and complete evaluation of demand on municipal services; namely, public schools, water supplies, fire and police protection, solid waste, and other public services.

4. To coordinate the timing of land development in Kingston with the provision of public services.

5. To preserve unique natural, historic, and cultural features.

6. To allow the implementation of appropriate mitigation methods in order to minimize potentially adverse impacts of development on the natural environment.

9.7.B. DEFINITIONS

APPLICANT: Individuals, partnerships, corporations, trusts, and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one per cent.

CALENDAR YEAR: The period beginning January 1 and ending December 31.

9.7.C. GENERAL REQUIREMENTS

1. COMPLIANCE WITH BYLAW – No building permit for a new residential dwelling unit or units shall be issued unless in accordance with this Bylaw.

2. APPLICABILITY – This Bylaw shall apply to definitive subdivision plans, division of land pursuant to Massachusetts General Laws, Chapter 41, Section 81P, and variances and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development for all purposes of this section if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of the adoption of this Bylaw. Two-family and multi-family dwellings shall be considered to have one building permit per dwelling unit for the purpose of this Bylaw.

3. ACTIVATION – During the first calendar year it is in effect, the total number of building permits for residential units issued between January 1 of that year and the vote of Town Meeting shall count toward the 70 permit total described in Section 9.8D.

9.7.D. PROCEDURE

1. Rate of Residential Development – The Building Commissioner shall issue permits for construction of new residential dwelling units only if permit construction will not result in authorizing the building of more than 70 dwelling units in a single calendar year. This rate is intended to insure that the Town, with prudent reliance on local and other financial resources, and in compliance with the revenue generating limitations of Proposition 2 1/2, can and will provide infrastructure and operate in a manner that provides an adequate and responsible level of town services.
2. The Building Commissioner shall issue building permits for construction of new dwelling units in residential subdivisions (or contiguous parcels which have been in the same ownership at any time subsequent to the adoption of this Bylaw) given final approval after passage of this Bylaw, only if permit issuance will result in authorizing construction within a 12 month period of up to 15 units but not more than 20 per cent of the units potentially allowed in each subdivision.

9.7.E. Exemptions

1. Definitive Subdivisions plans, or Approval Not Required (G.L. c. 41, § 81P) plans, of 2 lots or less.

2. All exempt units as described in Section 9.7.E.1., above shall be counted towards the 70 permit total described in Section 9.7.D.

3. Planned Residential Developments For Seniors (PRDS) shall be exempt from the provisions of Section 9.8. Residential Development Scheduling.

4. Insofar as the subdivision is not exempted by G.L. c. 40A, § 6 from the provisions of Section 9.7., the period of time (8 years) provided under G.L. c. 40A, § 6, in which a subdivision is not subject to zoning changes is hereby extended during the duration of Section 9.7., so as to protect such phased subdivisions against further changes in use and density requirements.

9.8 Inclusionary Housing

9.8.A. Purpose and Intent

1. Purpose – The purpose of this Section is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Kingston Master Plan, G.L. c. 40B, §§ 20-23, and ongoing programs within the Town to promote a reasonable percentage of housing that is affordable to moderate income buyers.

2. Intent – It is intended that the affordable housing units that result from Section 9.8., qualify as low or moderate income housing in compliance with the requirements for the same as specified by the Department of Housing and Community Development (“DHCD”) and that said units count toward the Town’s subsidized housing inventory (SHI), as maintained by DHCD. All projects to which this Section applies shall require a special permit from the Planning Board.

9.8.B. Definitions

1. Affordable Housing Unit: A dwelling unit that qualifies as a low or moderate income housing unit for purposes of listing in the subsidized housing inventory as maintained by DHCD.

2. Qualified Affordable Housing Unit Purchaser: An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing.
and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

9.8.C. APPLICABILITY

In all zoning districts, the inclusionary zoning provisions of Section 9.8., shall apply to any and all residential developments of property, whether the dwelling units are for rent or for sale, where any such project results in a net increase of 6 or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space. Section 9.8., shall apply to single-family, two-family, and multi-family development proposed under any permitting process, including, but not limited to definitive subdivisions under G.L. c. 41, §81U, an Approval Not Required (ANR) plan division of land proposed under G.L. c. 41, §81P, or a multi-family condominium or apartment building proposed under the Zoning Bylaw.

9.8.D. MANDATORY PROVISION OF AFFORDABLE UNITS

The Planning Board shall, as a condition of approval of any development hereunder, require that the applicant for a special permit comply with the obligation to provide affordable housing as more fully described in Sections 9.8.C and 9.8.E.

9.8.E. PROVISION OF AFFORDABLE UNITS

The Planning Board shall deny any application for a special permit development or, under Section 7.5. or Section 7.6, of the Zoning Bylaw, and this Section 9.8.E., if the applicant for the special permit does not agree that:

1. **PROVISION OF AFFORDABLE UNITS** – At least 10% of the lots in a division of land or units in a multiple unit development, whether for rent or for sale, shall be established as affordable housing in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing 6 units shall require one affordable unit and so on.

   (a) constructed or rehabilitated on the locus subject to the special permit;
   (b) constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 9.8.H.);
   (c) An applicant may offer, and the Planning Board, may recommend to the Board of Selectmen and Town Meeting, that the Town accept donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to Town Meeting accepting land as satisfaction of the requirements of Section 9.9, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;

   The applicant may offer, and the Planning Board may recommend that Town Meeting accept any combination of the Section 9.8.E.1.(a)-(c) requirements provided that in no event shall
the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Section 9.8.

2. **Affordable Housing Restriction** – As a condition for the granting of a special permit, all affordable housing units shall be subject to an affordable housing restriction in a form acceptable to the Planning Board, along with any other document required by DHCD. The restriction and any other related regulatory, monitoring or lottery agreements shall ensure that the required number of affordable units shall be restricted in perpetuity and shall only be sold or rented to qualifying low or moderate income households. Any such restriction must be recorded at the Registry of Deeds and a copy provided to the Planning Board and the Building Commissioner prior to the issuance of any building permits.

3. **Dimensional Modifications** – To facilitate the objectives of Section 9.8, modifications to the dimensional requirements in any zoning district may be permitted for any project under these regulations.

4. **Density Bonus** – The applicant may offer, and the Planning Board may (but is not required to) approve a density bonus where the Board may allow the addition of 2 additional market rate units for each additional affordable unit provided as part of compliance with the special permit. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by that amount necessary to permit the additional units.

### 9.8.F. Provisions Applicable to Affordable Housing Units on Site

1. **Siting of Affordable Units** – All affordable units constructed or rehabilitated shall be situated within the development so as not to be in less desirable locations than market rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market rate units.

2. **Design and Construction Standards for Affordable Units** – Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units.

3. **Timing of Construction or Provision of Affordable Units or Lots** – 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 noted in the Table on the next page.
### Affordable Unit Schedule

<table>
<thead>
<tr>
<th>Market Rate Unit %</th>
<th>Affordable Housing Unit %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 30%</td>
<td>None Required</td>
</tr>
<tr>
<td>30% plus 1 unit</td>
<td>At least 10%</td>
</tr>
<tr>
<td>Up to 50%</td>
<td>At least 30%</td>
</tr>
<tr>
<td>Up to 75%</td>
<td>At least 50%</td>
</tr>
<tr>
<td>75% plus 1 unit</td>
<td>At least 70%</td>
</tr>
<tr>
<td>Up to 90%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Fractions of units shall not be counted

#### 9.8.G. MARKETING PLAN FOR AFFORDABLE UNITS

Applicants shall submit a marketing plan or other method, approved by the Planning Board, which describes how the affordable units will be marketed to potential homebuyers. This plan shall include a description of the lottery or other process to be used for selecting buyers. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

#### 9.8.H. PROVISION OF AFFORDABLE HOUSING UNITS OFF-SITE

In accordance with the requirements of Section 9.8.E.1.(b) an applicant may, with the approval of the Planning Board, develop, construct, or otherwise provide the affordable units required hereunder off-site. All relevant requirements that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the special permit review and approval process.
SECTION 10 ADMINISTRATION

10.1 PERMITS

10.1.A. ZONING PERMIT

Any person seeking a building permit shall first receive from the Zoning Enforcement Officer a Zoning Permit indicating compliance with the provisions of this Bylaw. The Building Commissioner shall not issue a building permit until a Zoning Permit has been issued by the Zoning Enforcement Officer.

10.1.B. PROCEDURE

1. Application for Zoning Permit shall be made on forms available from the Zoning Enforcement Officer and on the Town's website. The application shall be accompanied by information sufficient to determine compliance with the provisions of this Bylaw. At a minimum, the information shall include:

   (a) A site plan for those uses listed in Section 10.3.A.2. The site plan shall be drawn in conformance with the provisions of Section 10.3., Site Plan.
   (b) Where the proposed use requires site plan review or special permit approval, evidence of such approval, including conditions of approval.

2. The Zoning Enforcement Officer shall review the application and support material for compliance with the provisions of this Bylaw and shall, within 14 days of submittal of the application, issue a Zoning Permit if the proposed use is in compliance with the provisions of this Bylaw. If the use is inconsistent with the provisions of this Bylaw, the Zoning Enforcement Officer shall notify the applicant in writing of the provisions with which the use is not in compliance.

10.1.C. BUILDING PERMIT

1. It shall be unlawful for any person to erect, construct, reconstruct, alter a structure, or establish a different use for an existing structure or lot without applying for and receiving from the Building Commissioner a building permit.

2. A building permit shall be applied for in writing to the Building Commissioner. The application shall be on a form available from the Building Commissioner and shall be accompanied by a plot plan.

3. No permit shall be issued unless the plans therefor and the intended use thereof fulfill in all respects the provisions of this Bylaw, except as may have been specifically permitted otherwise by action of the Board of Appeals and provided that a written copy of the terms governing such permission are submitted and attached to an application for and the resulting permit issued.

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10.1.D. OCCUPANCY PERMIT

1. No premises, building, structure, or land shall be occupied, used, or changed in use without an occupancy permit signed by the Building Commissioner. The occupancy permit shall not be issued until the buildings, structure, or premises, and its uses comply in all respects with this Bylaw.

2. A temporary occupancy permit may be issued in appropriate cases.

10.2 ENFORCEMENT

10.2.A. Zoning Enforcement Officer

This Bylaw shall be enforced by the Zoning Enforcement Officer, who shall be the Building Commissioner.

10.2.B. VIOLATIONS

1. If a violation shall be determined by the Zoning Enforcement Officer after an investigation of the facts and inspection of the premises, a written notice thereof shall be transmitted to the owner or duly authorized agent. The notice shall order that any use or condition of the premises contrary to the provisions of this Bylaw shall cease immediately. A copy of the notice shall also be delivered to the Board of Selectmen by the Zoning Enforcement Officer.

2. If after the notice is given, the premises continue to be used or remain in a condition contrary to the requirements of this Bylaw, the Board of Selectmen may institute appropriate legal proceedings to enforce the Bylaw.

3. Each day, or portion of a day, that any violation is continued after an order to cease and desist, shall constitute a separate offense.

4. If the Zoning Enforcement Officer is requested in writing to enforce the provisions of this Bylaw against any person allegedly in violation of this Bylaw and the Zoning Enforcement Officer declines to act, the Officer shall notify, in writing, the party requesting enforcement of any action or refusal to act, and the reasons therefor, within 14 days of receipt of such request.

10.2.C. PENALTIES

1. CRIMINAL PENALTIES – Whoever shall be cited in violation of any provision of this Bylaw or fails to comply with any of its requirements, shall upon conviction thereof, be fined not more than $300 for each offense. Each day the violation continues after a citation shall constitute a separate violation and the fine shall be accumulated retroactively to the date of the citation. Nothing herein contained shall prevent the town from taking other lawful action as it deems necessary to prevent or remedy any violation.

2. NONCRIMINAL DISPOSITION – In addition to the procedures for enforcement as described in Section 10.2.C.1., above, the provisions of the Bylaws may also be enforced by the Zoning Enforcement officer by noncriminal disposition pursuant to G. L. c. 40, § 21D. The violator
shall be fined not more than $50 for the 1st or 2nd offense and not more than $100 for the 3rd and subsequent offenses. Each day the violation continues after a citation shall constitute a separate violation.

10.3 SITE PLAN REVIEW

10.3.A. SITE PLAN REVIEW

1. Approval of a site plan application shall be by:
   
   (a) The Zoning Enforcement Officer for uses covered by Section 10.3.A 2., unless otherwise specified.
   (b) The Planning Board for all other uses.

2. A Site Plan Review approval, in accordance with this Section, is required before the issuance of a building permit for:
   
   (a) All uses for which a special permit or variance is required, except for one- and two-family dwellings.
   (b) All uses or change in use requiring off-street parking or loading, except one- and two-family dwellings and farming and/or for a change of use which does not require new or additional off-street parking spaces.
   (c) All sites containing more than one principal use.
   (d) All municipal uses.
   (e) All uses of 4000 square feet or less of gross floor area or 10 parking spaces or less shall be reviewed and acted on by the Zoning Enforcement Officer unless a special permit or variance is requested, in which case the Site Plan Review is acted upon by the Planning Board.
   (f) All other uses, excluding one- and two-family dwellings, that are not subject to review and action by the Zoning Enforcement Officer (ZEO), shall be reviewed by the ZEO and, if the submission is complete, forwarded to the Planning Board for Board review and action.

10.3.B. SUBMISSION PROCEDURE

1. Submission must include 16 copies of the site plan, a project notification form, and an application form supplied by the Zoning Enforcement Officer. The submission will be filed with the approving authority as specified in Section 10.3.A.1 above and in accordance with Section 10.3.C.

2. For all uses for which site plan submittal to the Zoning Enforcement Officer is required, the application for site plan review and the site plan may be submitted at the same time as the application for a building permit. For all uses for which site plan submittal to the Planning Board is required, the application for site plan review and the site plan shall be submitted at least 21 days prior to the application for a building permit.

3. The approving authority shall submit forthwith, after receiving a site plan which complies with all submission requirements, 6 copies of the site plan to the Planning Board, one copy to...
the Zoning Enforcement Officer, and one copy of the site plan to each of the following listed below:

(a) Board of Selectmen
(b) Conservation Commission
(c) Board of Health
(d) Board of Appeals
(e) Fire Department
(f) Police Department
(g) Water Department
(h) Superintendent of Streets, Trees, and Parks
(i) Sewer Department

Each of the recipients listed above shall return comments within 30 days to the Zoning Enforcement Officer or Planning Board, whichever is appropriate. Failure to return comments within the specified time period shall mean that the reviewing Board or Official does not take issue with the site plan.

4. Unless otherwise required by law, the special permit or variance granting authority shall not conduct a public hearing for a special permit or variance until a report has been received from the Planning Board or 45 days have elapsed since the site plan was officially submitted to the Town.

5. If the site plan complies with this Bylaw, it may be approved or approved with conditions, if needed, to assure compliance. If it does not comply with the purposes and specifications of this Bylaw, it may be disapproved. If disapproved, the plan can be revised and resubmitted without prejudice. Within 45 days from the date of submission of the plan, the Planning Board shall, in the case of a special permit or a variance, transmit to the Special Permit Granting Authority or Board of Appeals a report accompanying such materials, maps or plans as will aid the Special Permit Granting Authority or Board of Appeals in judging the application for special permit or variance, and, in all other cases, notify the applicant of the action taken. Failure to act within 45 days shall constitute approval of the site plan as submitted.

6. If a use shown on an approved site plan is to be changed or expanded, a revised site plan shall be submitted for approval in the same manner as the original submittal.

7. No building permit shall be issued for any building or structure for which Site Plan Review approval is required unless approval thereof shall have been obtained in compliance with this Section or unless the time for action has passed without action having been taken.

10.3.C. Content and Format

1. The site plan shall be prepared and certified by a registered landscape architect or one of the following: 1) professional architect, 2) registered professional land surveyor, or 3) registered professional engineer as required by G.L. c. 112.

2. For all site plans, the following shall be shown for the entire site, whether or not development is to be phased, unless an item or items are waived in writing by the Zoning Enforcement Officer or Planning Board, as appropriate.
(a) location map at 600 feet per inch or such other scale as is appropriate.
(b) the name(s) and address(es) of the owner(s) of property shown and the name(s) and address(es) of the applicant, designer, engineer and surveyor.
(c) names of all abutters as determined from the most recent local tax list.
(d) date, north point, and scale (preferably 40 feet to the inch).
(e) perimeter survey of lot, indicating locations of all easements, rights-of-way, property boundaries, dimensions, lot area, and zoning district boundaries, existing and proposed.
(f) topographic plan indicating existing and proposed contours at intervals not greater than 2 feet. Sufficient information to clearly indicate areas in the site and within 50 feet of the site where gravel or loam removal or filling is proposed and the approximate volume in cubic yards. All elevations shall refer to the nearest United States Coastal and Geodetic Benchmark (NGVD).
(g) the location and boundaries of all wetlands as defined by the G.L. c. 131 and the 100 year flood line as defined by Federal Emergency Management Act (FEMA) maps on file with the Town Clerk.
(h) all other data required to make a determination of compliance with off-street parking and loading requirements.
(i) photographs and/or slides in sufficient quality and detail to indicate the environmental features of the site, including, but not limited to topography, views of the water, if any, adjacent or open space, and adjacent structures and/or uses of land.
(j) schematic design plans which accurately locate all existing and proposed buildings and structures, parking areas, driveways, driveway openings, service areas, common areas, usable open space, landscaped areas and the proposed treatment thereof (including fences, walls, planting areas and walks), lighting, signs, all facilities for storm drainage, sewage disposal, refuse, other waste disposal, and other utility systems (including fire alarms and hydrants), and which define all materials, finishes, structural and mechanical systems, and gross floor areas (including the proposed uses thereof).
(k) elevations and perspective drawings which thoroughly illustrate and define the features of the entire project.
(l) business signs, traffic signs and street, security, or parking lot lights located on site and within 150 feet of the site, and the size, dimension, height, color, and illumination (type and candlepower) of all signs or lights.
(m) traffic flow patterns within the site, egress and entrances, loading and unloading areas, curb cuts on site and within 150 feet of the site, surface construction, estimated daily hour and peak traffic levels on site, and all abutting public and private ways.
(n) a plan for control of erosion, dust and silt, both during and after construction. The plan shall include all existing and proposed slopes, construction sequencing, temporary and permanent erosion control, special construction, and swale and stream scour protection.
(o) one or more tables indicating, by zoning classifications, the required and proposed setback, side yard, and rear yard distances, the intended use of the site and all buildings, the number of people anticipated on site, existing and proposed gross floor area and number of units and parking areas, with their locations.

10.3.D. Findings and Determinations

1. Prior to approving a site plan, the Planning Board shall make a finding and determination that the proposed development of the site:
(a) is consistent with general purposes of this Bylaw and with the more specific objectives and purposes applicable to the proposed use or requested special permit which may be set forth elsewhere in this Bylaw, such as, but not limited to, those in Section 5, Table of Uses; Section 8 Intensity and Dimensional Requirements; and Sections 9.2 – 9.7.

(b) complies with the criteria or standards as may be set forth in Section 10.3 and the standards for the zoning district where the intended use is located;

(c) is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area;

(d) meets accepted design standards and criteria for the functional design of facilities, structures, and site construction;

(e) will not create adverse impacts on the public services and facilities serving the development, including, but not limited to, the following:
   i. the sanitary sewer system;
   ii. the storm drainage system;
   iii. the public water supply;
   iv. the street system for vehicular traffic;
   v. the sidewalks and footpaths for pedestrian traffic;

(f) in addition, will not create adverse impacts for residential developments and recreational facilities,

(g) where adverse impacts cannot be mitigated by such services and facilities, or where there is insufficient capacity in such services and facilities, improvements will be made to provide sufficient capacity;

(h) will not create other adverse impacts, including those that may occur off the site, or such potential adverse impacts will be mitigated in connection with the approved development, so that the development will be compatible with the surrounding area.

2. Where the Planning Board or Zoning Enforcement Officer determines that one or more of the following objectives are applicable to an application for a Site Plan Review proposed use, the Board or ZEO, based on who is conducting the review and taking final action, shall make a finding and determination that the following objectives will be met:

(a) the proposed development will not present a demonstrable adverse impact on the surrounding area resulting from:
   i. excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area;
   ii. emission or discharge of noxious or hazardous materials or substances;
   iii. pollution of water ways or ground water; and,
   iv. transmission of signals that interfere with radio or television reception.

(b) the existing landform is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of vegetation that may result therefrom, particularly from development on steep slopes, and by maintaining man-made features that enhance the landform, such as stone walls, with minimal alteration or disruption;

(c) buildings are located:
   i. harmoniously with the landform, vegetation and other natural features of the site;
   ii. effectively for solar and wind orientation for energy conservation; and,
   iii. advantageously for views from the building while minimizing the intrusion on views from other buildings;

(d) a system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, is provided;

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(e) all measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area of a proposed development are taken, such as, but not limited to, minimizing the velocities of water runoff, maximizing protection of disturbed areas from stormwater runoff, and retaining sediment within the development site as early as possible following disturbances;

(f) the removal or substantial alteration of buildings of historic or architectural significance is minimized and that new uses or the erection of new buildings are compatible with buildings or places of historic or architectural significance;

(g) the natural character and appearance of the town is enhanced. Awareness of the existence of a development, particularly a non-residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, single family neighborhoods or Town property by the effective use of existing landforms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting;

(h) open space on the site, particularly such common open space and usable open space as may be required by this Bylaw, is located and designed so as to increase the visual amenities for the surrounding area as well as for the occupants of the development;

(i) the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area, without specifying any particular architectural style;

(j) construction on the site conforms to good design practice for features such as parking and loading, grading, landscaping, drainage, utilities, lighting;

(k) there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical, and other emergency personnel and equipment;

(l) there is improved access to, or the development of additional links and connections to, a Town system of public facilities such as conservation areas, recreation facilities, footpaths or bicycle paths, streets, or utility systems.

(m) the location of intersections of access drives with the Town’s arterial or collector streets minimizes traffic congestion;

(n) electric, telephone, cable TV, and other such lines and equipment are either placed underground or are as inconspicuous as possible;

(o) support facilities such as storage, refuse disposal, utility buildings and structures for recreational activities are located, and screened, to form as effective a visual screen of them as is possible;

(p) no development shall cause downstream properties, water courses, channels, or conduits to receive stormwater runoff from a proposed development at a higher peak flow rate, or to receive other unreasonable impacts, than would have resulted from the same storm event occurring over the site of the proposed development in its natural undeveloped condition;

(q) adequate water quality standards are promoted giving due regard to the conservation of surface and groundwaters for the protection of fish and wildlife, recreational purposes and the use of such water for public water supply in communities which are downstream, by requiring that adequate pollution abatement controls be incorporated into the drainage design of the proposed development;

(r) adequate provisions for the maintenance of common areas;

(s) adequate measures proposed to mitigate impacts of development.
10.4 BOARD OF APPEALS

10.4.A. MEMBERS

1. There shall be a Board of Appeals of 5 regular members and 2 associate members.

2. The Board of Selectmen shall appoint members and associate members pursuant to the requirements of G.L. c. 40A, § 12.

10.4.B. POWERS

The Board of Appeals shall have the following powers:

1. To hear and decide upon an appeal by any person aggrieved by reason of the inability to obtain a permit or enforcement action from any administrative official under the provisions of G.L. c. 40A or of this Bylaw, or by any person including an officer or a Board of the Town aggrieved by an order or decision rendered pursuant to G.L. c. 40A provided any such appeal is filed within 30 days from the date of written notice of such order or decision and not otherwise.

2. The Board may grant a special permit as a Special Permit Granting Authority when authorized by this Bylaw.

3. The Board shall have the power to hear and decide petitions for variances, in accordance with G.L. c. 40A, § 10, after a public hearing for which notice has been given in accordance with G.L. c. 40A, § 11, provided that:

   (a) No variance may authorize a use or activity not otherwise permitted in the District in which the land or structure is located.

   (b) The Board shall require evidence be heard and specifically find that owing to circumstances relating to soil conditions, shape, or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located, that a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially detracting or deviating from the intent of this Bylaw.

   (c) The Board may impose conditions, safeguards, and limitation of time and for use, including the continued existence of any particular structures but excluding any particular condition, safeguards, or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner, or any owner.

   (d) If rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse; provided, however, that the Board in its discretion and upon written application by the grantee of the variance may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with the Board prior to the expiration of such one year period. If the Board does not grant such extension within 30 days of the date of...
application therefor, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new public hearing.

4. To hear and decide, in accordance with G.L. c. 40A, § 6, applications for special permits to change, alter, or extend lawfully pre-existing nonconforming uses and structures to the extent allowed by Bylaw Section 4.2. Nonconforming Structure, Use or Lot.

5. To hear and decide applications for comprehensive permits for low or moderate income housing in accordance with the provisions of G.L. c. 40B, §§ 20-23.

10.4.C. BOARD OF APPEALS PROCEDURE AND DECISION

1. The Board shall adopt rules to govern its proceedings pursuant to G.L. c. 40A and c. 40B. These rules shall be made available to the public and a copy shall be filed with the Town Clerk.

2. Within 65 days of receipt of an appeal, petition for a variance, or a special permit request, the Board of Appeals shall hold a hearing with notice thereof in accordance with G.L. c. 40A § 11.

3. The Board of Appeals shall make a decision on the appeal or variance petition within 100 days of filing, unless extended by written agreement between the Board and the applicant, and on the request for a special permit within 90 days of the close of the public hearing, unless extended by written agreement between the Board and the applicant.

4. The decision of the Board of Appeals shall be filed with the Town Clerk along with a copy of all plans finally approved. The decision shall recite the evidence heard, specific findings made on the evidence heard, the Board’s vote on each of the findings required by G.L. c. 40A, §§ 8, 9, 10, 11, and 15, as well as this Section 10 and shall include the overall decision of the Board and the vote.

5. The Board shall not grant greater relief, use, or rights than that requested in the application for an appeal, variance petition, or request for special permit.

6. A copy of the decision of the Board shall also be sent to the Board of Selectmen, Building Commissioner, Planning Board, Zoning Enforcement Officer, and to the applicant.

7. No appeal or petition from the terms of this Bylaw with respect to a building or lot of land and no application for a special exception to the terms of this Bylaw which has been acted upon unfavorably by the Board of Appeals or Special Permit Granting Authority shall be considered on its merits by the Board of Appeals within 2 years after the date of the unfavorable action except with the consent of all but one member of the full membership of the Planning Board, and in accordance with G.L. c. 40A, § 16.

10.5 PLANNING BOARD

10.5.A. Members

1. The Planning Board shall consist of 5 elected members, each serving a 5 year term, and 1 appointed associate member, serving a 3 year term.
2. An associate member of the Planning Board shall be appointed jointly by the Planning Board and the Board of Selectmen for a 3 year term. Once the associate member is appointed, the chair of the Planning Board may designate the member to sit on the Board for the purposes of acting on a special permit application and site plan review 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.

**10.5.B. Powers**

The Planning Board shall act on any matter authorizing it to do so under this Bylaw. The Board shall have the following powers:

1. It shall be a special permit granting authority, unless otherwise authorized in the Bylaw.

2. It shall be the Site Plan Review (See Section 10.3) granting authority, except as otherwise provided by Section 10.

3. It may initiate amendments to the Zoning Bylaw and Zoning Map. For all proposed zoning amendments, the Board shall hold a public hearing and make a recommendation to Town Meeting as provided for in G.L. c. 40A, § 5.

4. It shall review and consent to any filing of a repetitive petition for a special permit, variance, or administrative appeal before the petition may be reheard by the Planning Board or Zoning Board of Appeals.

5. It shall review and, if appropriate, recommend adoption of any repetitive zoning bylaw or zoning map amendment that, having been acted upon unfavorably by Town Meeting, is refiled within 2 years of that unfavorable action, in order for Town Meeting to consider the zoning amendment.

**10.6 SPECIAL PERMIT GRANTING AUTHORITY**

1. Unless otherwise specified in this Bylaw, the Special Permit Granting Authority may be either the Board of Appeals or the Planning Board, as designated by the specific provisions of the Bylaw.

2. The Special Permit Granting Authority may issue special permits in accordance with the procedures and provisions of the Rules and Regulations of the Special Permit Granting Authority adopted in accordance with G.L. c. 40A, § 9, and of Section 10.7, Special Permit.

**10.7 SPECIAL PERMIT**

**10.7.A. PROCEDURE**

1. A special permit shall be required for all uses which are designated as requiring a special permit before the Building Commissioner may issue a building or occupancy permit or before the Zoning Enforcement Officer may issue a Zoning Permit.
2. Each application for a special permit shall be on forms supplied by the Zoning Enforcement Officer and shall be filed with the Town Clerk and in quadruplicate with the appropriate Special Permit Granting Authority who shall transmit copies thereof to the Zoning Enforcement Officer and to the Planning Board, if it is not the Special Permit Granting Authority.

3. The copies filed with the Special Permit Granting Authority shall include the date and time of filing certified by the Town Clerk.

4. The Planning Board or the Zoning Enforcement Officer, as appropriate, shall transmit to the appropriate Special Permit Granting Authority, a report accompanied by materials, maps or plans as will aid the Special Permit Granting Authority in judging the application and in determining special conditions and safeguards.

5. Each application for a special permit shall be subject to the provisions of Section 10.3., Site Plan Review.

6. The Special Permit Granting Authority shall, at the expense of the applicant, give public notice of the hearing in the manner provided in G.L. c. 40A, §§ 9 and 11.

7. The decision of the Special Permit Granting Authority must be made within 90 days following the close of the public hearing, and failure of the Board to take final action within those 90 days may be deemed to be a constructive grant of the special permit if the procedures of G.L. c. 40A, § 9, are followed.

8. Any approval which has been granted by the Special Permit Granting Authority under the provisions of Section 10.7. shall lapse within 3 years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

9. Upon receipt of an application for a special permit by the Town Clerk, the Special Permit Granting Authority shall transmit copies of the application and plans to appropriate Town boards, committees, and departments. These may include: Planning Board, Conservation Commission, Board of Health, Inspectional Services, Town Planner, Fire Chief, Police Chief, Public Works Director, and other boards and officials as necessary.

   Town Boards, departments, and officials shall have 14 days to report to the Special Permit Granting Authority.

10.7.B. CONSIDERATIONS FOR APPROVAL OF SPECIAL PERMIT

1. The special permit granting authority shall not approve any application for a special permit unless it finds that, in its judgement, the use of the site is in harmony with the general purposes and intent of this Bylaw and the following are met:

   (a) the use as developed and operated will not adversely affect the neighborhood;
   (b) the developed facilities adequately provide for all proposed and appropriate operations of the use;
   (c) the site is an appropriate location for such use, structure, or site condition;
(d) access to the site is over streets and through areas appropriate for the type of vehicle involved;
(e) access by vehicles required for the use will not create traffic volumes greater than existing street capacity or cause nuisance or hazard to vehicles or pedestrians;
(f) site design is compatible with existing natural features of the site and surrounding areas;
(g) site design and use may not create adverse impacts to the surrounding areas off site;
(h) Potential off-site adverse impacts must be identified and mitigated during development to insure compatibility with surrounding areas;
(i) the use as developed shall not create negative impacts on public services or infrastructure including but not limited to:
   i. municipal sewerage system;
   ii. public ways and storm drainage systems;
   iii. public water supply; and,
   iv. pedestrian sidewalks and footpaths.
(j) residential developments shall provide for adequate recreational facilities. Such facilities may be on site, or improvements may be made off-site if such provides better services and improvements more compatible with existing facilities.

10.7.C. **Conditions of a Special Permit**

1. In approving a special permit, the Special Permit Granting Authority may attach conditions, limitations, and safeguards as are deemed necessary to protect the district and the Town. No special permit shall take effect until the notice is recorded in the Registry of Deeds. Conditions may include but are not limited to the following:

   (a) street, side, or rear yard setback dimensions greater than the minimum required;
   (b) specific design guidelines for the exterior features and appearances of the structures;
   (c) limitations on the number or size of signs;
   (d) regulation of design and location of access drives, traffic features, and all site illumination;
   (e) requirement of increase in parking or site special features beyond minimum standards in areas of:
      i. number of spaces
      ii. number of loading bays
      iii. amount of landscaping or screening plants
   (f) increased areas of screening at lot lines or street lines through the use of walls, fences, plantings, or other devices;
   (g) limitation on the density of a development in areas of:
      i. number of units or buildings
      ii. total area (square footage) of buildings or improvements
   (h) requirement of on site or off site mitigation activities to address adverse impacts to Town facilities or services;
   (i) limitation on the time the special permit will be in effect;
   (j) limitations on development construction activity including hours of construction activity, movement of trucks and equipment, and measures to control erosion, dust, dirt, and damage to vegetation;
   (k) requirement of filing of an annual certificate of compliance with conditions of approval;
   (l) requirement to provide adequate security;
   (m) requirement to implement operational techniques to facilitate traffic trip reductions or coordinate peak Town service demands to availability of those Town services;
(n) where an applicant offers to make a financial contribution to the Town for the construction of improvements to increase the capacity of Town facilities or services, with the work not to be performed by the applicant, the SPGA shall make the special permit, if approved, conditional upon the receipt of the funds and to link the stages of construction of the proposed development to the stages of the completion of the improvement.

10.7.D. CONSTRUCTION UNDER SPECIAL PERMIT

Construction or operations under a building or special permit shall conform to any subsequent amendment of the Bylaw unless the use or construction is commenced within a period of not more than 12 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.

10.8 FEES

10.8.A. ESTABLISHMENT OF FEE SCHEDULE

1. The Board of Selectmen shall establish a schedule of fees and expenses for building permits, appeals, applications, and other matters pertaining to this Bylaw. The schedule of fees shall be posted in the office of the Building Commissioner and may be altered or amended only by the Board of Selectmen.
2. Failure to pay all applicable fees, charges, and expenses in full will be considered grounds for denial of any application or appeal.
Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 6 of chapter 40A of the General Laws or any other general or special law to the contrary, grandfathered vacant lots in the Town of Kingston must maintain a setback of not less than 10 feet from any lot line to any structure.

SECTION 2. This act shall take effect upon its passage.

Passed to be enacted
House of Representatives, May 10, 2002

Passed to be enacted
Senate, May 14, 2002

Approved
Acting Governor, May 22, 2002