

TOWN OF ARLINGTON ZONING BYLAW

As recommended to Town Meeting by the Arlington Redevelopment Board on January 22, 2018
~~ADOPTED, OCTOBER 8, 1975 WITH AMENDMENTS THROUGH TOWN MEETING OF~~
~~APRIL 26, 2017~~

Section 1. PURPOSE AND AUTHORITY

1.1 ~~Section 1.01~~ - Short Title

This Bylaw shall be known and may be cited as the "Zoning Bylaw of the Town of Arlington, Massachusetts," hereinafter referred to as "this Bylaw."

1.2 Purposes

~~Section 1.03 -- Purpose~~

The purpose of this Bylaw is to promote health, safety, convenience, morals and welfare of the inhabitants of the Town of Arlington; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to encourage housing for persons at all income levels; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to protect and preserve open space as a natural resource, for the conservation of natural conditions for flora and fauna and to serve as urban amenity for scenic and aesthetic enjoyment and recreational use; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the Town; to achieve optimum environmental quality through review and cooperation by the use of incentives, bonuses and design review; and to preserve and increase its amenities and to encourage an orderly expansion of the tax base by utilization, development, and redevelopment of land. It is made with reasonable consideration to the character of the district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Redevelopment Board, including the making of Arlington a more viable and more pleasing place to live, work, and play.

1.3Section 1.02 - Authority

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

~~This Bylaw is adopted pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called the "Zoning Act." Where the Zoning Act is amended from time to time after the effective date of this Bylaw and where such amendments are mandatory, such amendments shall supersede any regulations of this Bylaw which have been set forth on the basis of the Zoning Act in existence at the effective date of this Bylaw. Where references are to particular sections or provisions, and such sections or provisions are or have been amended, renumbered, or otherwise changed by the General Court, the reference shall be to the section or provision as so changed.~~

1.4 Applicability.

~~Section 4.02 - Application.~~

All buildings or structures erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, after the effective date of this Bylaw shall conform with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which it is located. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, bylaw, other section of the Zoning Bylaw, or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

~~Except as herein provided, the provisions of this Bylaw shall apply to the erection, construction, reconstruction, alteration, or use of buildings, structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.~~

~~1.5~~Section 12.01 - Amendment

This Bylaw may ~~be amended~~ from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, § 5. in accordance with Section 5 of the Zoning Act. When a petition for a change in the zoning map is filed, such petition shall show that copies of the petition have been sent by registered or certified mail to all abutters of the land referred to in the petition. ~~A separate conspicuous statement shall be included with property tax bills sent to nonresident property owners stating that notice of hearings to amend this bylaw by making boundary or use changes within a district in which the nonresident owner owns property shall be sent postage prepaid to any such owner who files an annual request for such notice with the Town Clerk no later than January First and pays an annual fee of two dollars.~~

1.6 Severability.

~~Section 12.02 - Validity.~~

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

~~The invalidity of any section, paragraph or provision of this Bylaw, or of any district, or part thereof as shown upon the Zoning Map, or of any boundary line shown upon said map, shall not affect the validity of any other section, paragraph or provisions of this Bylaw, or of any other district or part thereof as shown upon the Zoning Map, or of any other such boundary line.~~

~~Section 4.01 - Interpretation~~

~~The provisions of this Bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the Town of Arlington, Massachusetts, and except for the Zoning Bylaw of the Town of Arlington, Massachusetts, dated March 1959, and all subsequent amendments thereto, the provisions of this Bylaw are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted bylaw, covenants, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, bylaw, other section of the Zoning Bylaw, or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.~~

~~Section 12.03 - Effective Date~~

~~This Bylaw shall take effect upon acceptance by the Town and its approval by the Attorney General and publication according to Section 32 of Chapter 40 of the General Laws of the Commonwealth of Massachusetts.~~

Section 2. Definitions

SECTION 2. DEFINITIONS

ARTICLE 2: DEFINITIONS in Existing Bylaw

~~In "For the purpose of~~ this Bylaw and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein. Words used in the present tense include the future. ~~The singular ; the singular number~~ includes the plural; and the plural ~~includes the singular.~~ The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The words ~~"used"the singular;~~ the words ~~"used"~~ or ~~"occupied"~~ include the words ~~"designed," "arranged," "intended,"~~ ~~"designed," "arranged," "intended,"~~ or ~~"offered," "offered,"~~ to be used or occupied; the words ~~"building," "structure," "lot," "land," "building," "structure," "lot," "land,"~~ or ~~"premises"~~ shall be construed as though followed by the words ~~"or any portion thereof";~~ and the ~~word "shall"~~ is always mandatory and not merely directory.

Terms and words not defined herein but defined in the ~~State Commonwealth of Massachusetts~~ Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary. ~~Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by The Standard Industrial Classification Manual published by the U.S. Bureau of the Census."~~

Abandonment: The cessation of a use as indicated by the visible or otherwise apparent intention of an owner to discontinue a use of a structure or lot; or the removal of the characteristic equipment or furnishing used in the performance of the use, without its replacement by similar equipment or furnishings; or the replacement of a nonconforming use or structure by a conforming use or structure.

Adult Day Care: A facility providing non-residential social, supportive, or health services, dementia services, or any combination thereof, to the elderly and people of any age with disabilities, licensed if applicable by the Massachusetts Department of Public Health.

Adult Uses: All ~~those~~ uses as described and defined in Massachusetts General Laws Chapter 40A, Section 9A, as amended.

Affordable Units: Rental Units priced such that the rent (including utilities) shall not exceed 30% of the income of a household at 60% of median income; or, for homeownership units, priced such that the annual debt service on a mortgage plus taxes, insurance, and condominium fees (assuming a 5% down payment) shall not exceed 30% of the income of a household at 70% of median income.

Area Median Income: The median family income for the metropolitan statistical region that includes the Town of Arlington, as defined by the income set forth in or calculated based on U.S. Department of Housing and Urban Development (HUD) ~~regulations, as amended.~~

Eligible Household: For ownership units, a household whose total income does not exceed 80% of ~~Area~~ the Median Income, ~~of households in the Boston metropolitan area as defined by the U.S. Department of Housing and Urban Development~~ adjusted for household size. For rental units, a household whose total income does not exceed 70% of ~~Area~~ the Median Income ~~of households in the Boston metropolitan area as defined by the U.S. Department of Housing and Urban Development~~, adjusted for household size.

Fair Market Rent: An amount determined by the U.S. Department of Housing and Urban Development; and used by the Arlington Housing Authority to determine the maximum rental payment to be paid to an owner under the Section 8 program. ~~Said amount is~~ adjusted for unit size and with an allowance for utility costs.

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

Arlington Redevelopment Board ~~ARB~~: The Arlington Redevelopment Board ("ARB") which was vested with the rights and powers of a planning board by the Massachusetts General Court in Chapter 783 of the Acts of 1971.

Artisanal Fabrication: Production of goods ~~using by the use of~~ hand tools or small-scale, light mechanical equipment occurring solely within an enclosed building where such production requires no outdoor operations or storage. Typical uses have minimal negative impact on surrounding properties and include, but are not limited to, woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts, production of alcohol, or food processing.

Artistic/Creative Production: Creation, production, manufacture, distribution, publishing, rehearsal, performance, broadcast, selling, or teaching of the visual arts, performing arts, applied arts, literature, heritage, media, music, information technology, communications media, or digital content ~~and~~ applications; or the invention, design, prototyping, or fabrication, assembly, and packaging of parts for further assembly or consumer goods for sale.

Assisted Living Residence: A residential development subject to certification under G.L. Chapter 19D, which provides room and board; provides assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and collects payments or third-party reimbursement from or on behalf of residents to pay for the provision of assistance.

Athletic Facility, Indoor: A facility comprised of one or more buildings or structures, with or without seating for spectators, providing accommodations for a variety of individual, organized, or franchised sports, such as but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. The facility may also provide health and fitness club facilities, swimming pool, snack bar, retail sales of related sports, health or fitness items, and other support facilities.

Attic: An unfinished, non-habitable space immediately below the roof of a building, typically used for storage or mechanical equipment.

Auto Body Shop: A facility providing major automobile repair services such as repair, rebuilding, and reconditioning of engines or automobiles, or collision services for automobiles, such as body, frame, or fender straightening and repair, or overall painting of automobiles.

Auto Repair Shop: A facility for the general repair of automobiles, motorcycles or noncommercial trucks, including rebuilding, or reconditioning of engines, and the sale, installation, and servicing of equipment and parts.

~~Garage, Auto Repair~~: Any building used for the keeping of motor vehicles and in which a business or industry dealing with the repair or servicing of such vehicles is maintained, but not including body work or painting.

Auto Service Station: A building, structure or land use with no more than three service bays primarily for the dispensing or sale of automotive fuels, oils or accessories, including lubrication of automobiles, replacement or installation of parts and accessories, and washing of automobiles.

~~Service Station~~: A building or part thereof with no more than three service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service, car washing services or auto repair limited to: tire servicing and repair, but not recapping or regrooving, replacement of miscellaneous parts and minor adjustments to parts or motor not involving removal of head, crankcase or racing motor.

Awning: A roof-like covering~~rooflike covering, as of canvas~~, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

Basement: A portion of a building, partly below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. ~~A basement is not considered a story unless its ceiling is four (4) feet six (6) inches or more above the average finished grade.~~

"Bed and Breakfast: A dwelling with a resident owner or manager in which lodging units are rented and breakfast is served to the people occupying the lodging units, ~~and which has a resident owner or manager.~~

~~Bed and Breakfast Home: A bed and breakfast occupied and operated by the owner and in which no more than three lodging units are available for rent."~~

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

Building, Accessory: A building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building ~~or, or on~~ an adjacent lot in the same ownership.

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

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

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

Building, Detached: A building with no physical connection to another building~~having open space on all sides.~~

Building Height~~Height of Building~~: The vertical distance of the highest point of the roof above the average grade of the curb line abutting the property. Refer to Sections 5.3.19, 5.3.20, and 5.4.2.B(5) for detailed exceptions. ~~In the R0, R1 and R2 zoning districts where the lot has a slope in excess of five (5) percent, the height is the vertical distance of the highest point of the roof above the average finished grade of the ground adjoining the building as computed before the building is actually erected. This definition excludes penthouses, bulkheads, and other allowable superstructures above the roof line.~~

Building Line, Front: A line drawn parallel to the front boundary of a lot along the front foundation wall of a building or through the point on a building closest to the front boundary.

Building, Nonconforming: A building, lawfully existing at the time of adoption of this Bylaw, or any subsequent amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the building is located. (See also,

Nonconformance.)

Building, Setback Line: The line ~~established by this Bylaw~~, beyond which a building shall not extend, except as specifically provided by this Bylaw.

Building Step Back: Upper story building setback provided along all building elevations with street frontage, excluding alleys.

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

Carport: A roofed structure, unenclosed on two or more sides, which may serve as a shelter for motor vehicles.

Catering Service: Facility for the provision of prepared food for delivery and presentation to an off-premises location. Services may include provision of associated service staff and equipment.

~~Catering Service: Food preparation at an establishment whose principal use is restaurant or fast-order food establishment, in quantities in excess of individual meal offerings, intended for consumption at an off-premises site.~~

~~Catering: Provision of prepared food, and sometimes food presentation, service staff and equipment to an off-premises location."~~

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

Certificate of Occupancy: A statement under the State Building Code signed by the Inspector of Buildings, setting forth either that a building or structure complies with the Zoning Bylaw or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

Child Care Facility: A facility operated on a regular basis by an entity licensed by the Massachusetts Department of Early Education and Care under G.L c. 15D, § 1A, which may be known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other similar name, which receives children not of common parentage under seven years of age, or under 16 years of age if they are children with special needs, for nonresidential custody and care during part or all of the day, separate from their parent(s).

Commercial Vehicle: Any truck, including but not limited to ~~step vans~~~~stepvans~~ and cube vans, or bus, or a registered motor vehicle including but not limited to passenger car, pickup truck, or passenger van on which is affixed any writing or logo to designate the business or professional affiliation of said vehicle, or where tools of said business or professional affiliation are visibly stored on the exterior of the vehicle, or a recreational vehicle used in conjunction with a business. A pickup truck not used for commercial purposes and on which there is no writing or logo to designate a business or professional affiliation and which does not have tools visible on the outside shall not be considered a commercial vehicle for purposes of the bylaw.

Common Land: A parcel or parcels of ~~outdoor space in a Planned Unit Development~~~~open space within the site designated for a planned unit development~~, maintained and preserved for ~~outdoor~~~~open~~ uses, and designed and intended for the use or enjoyment of residents of the planned unit development, but not including parking areas or ways, public or private. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit development including walks, patios, benches, playground facilities, and terraced areas."

Conservation Land: A tract or patch of land reserved for the protection, development and promotion of natural resources and for the protection of watershed resources, as well as for use as open space or for passive outdoor recreation.

Consumer Service Establishment: Business such as lawnmower or bicycle repair, upholsterer, small tool and equipment rental, or small appliance repair.

Court: An open, uncovered unoccupied space partially or wholly surrounded by the walls of a structure.

Court, Inner: A court surrounded on all sides by the exterior walls of a structure.

Court, Outer: A court having at least one side thereof opening onto a street, alley or yard or other permanent open space.

Deck: A roofless outdoor space built as an above-ground platform projecting from the wall of a building and connected by structural supports at grade or by the building structure.

District: A zoning district as established by ~~Section 4~~Article 3 of this Bylaw.

Driveway: An area on a lot which is open to the sky and which may be paved and open space, ~~which may be paved located on a lot, which is not more than 20 feet wide, twenty (20) feet in width~~ built for access to a garage or an, ~~or~~ off-street parking or loading space.

Apartment ~~Building~~House: A multi-family building designed or intended or used as the home or residence of four or more households~~families~~, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

Dormitory: A dwelling, under the ownership or control of an educational, charitable or philanthropic organization which provides separate rooms or suites for the semi-permanent~~semipermanent~~ occupancy of individuals or groups of up to four individuals per room, with common bath and toilet facilities and without individual cooking facilities.

Dwelling: A privately or publicly owned permanent structure, whether owned by one or more persons or in condominium, or any other legal form which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "single~~one~~-family," "two-family," "duplex", "three-family" or "multi-family" dwelling, or single-room occupancy building, shall not include hotel/motel shall not include hotel, lodging house, bed and breakfasts, bed and breakfast~~homes~~, hospital, membership club, mixed-use~~mobile home~~, or mobile~~home~~ dormitory.

Dwelling Unit: A separated portion of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one household.

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

Duplex ~~Dwelling~~House: A building containing two dwelling units joined side by side or front to back, sharing a common wall for all or substantially all of its height and depth; that is, in which no part of one dwelling unit is over any part of the other dwelling unit. A duplex shall be considered as one ~~(1)~~ principal building occupying one ~~(1)~~ lot for the purposes~~purpose~~ of determining yard requirements.

Multi-Family Dwelling: A building containing four or more dwelling units.

Single-Family Dwelling: A building containing only one dwelling unit.

Single-Room Occupancy Building: A building with four or more rooms for occupancy by individuals not living as a single housekeeping unit, with shared cooking and living facilities and which may have individual or shared sanitation facilities. The term "single-room occupancy building" shall not include apartment buildings, hotels, nursing homes, dormitories, or assisted living residences.

~~Boarding House; Boarding Home: A house in which a regular service of meals is furnished for persons for a remuneration.~~

~~Rooming or Lodging House: A building containing four or more lodging units.~~

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

Three-Family Dwelling: A buildinghouse containing three ~~(3)~~ dwelling units.

~~Townhouse Town House~~ Structure: A row of at least three single~~(3)~~ one-family attached dwelling units whose sidewalls are separated from other dwelling units by a fire separation wall or walls, and where each unit has. ~~Each unit in the row, or town house, may be owned by a separate owner and shall have~~ its own at-grade access.

Two-Family Dwelling: A buildinghouse containing two ~~(2)~~ dwelling units, in which part of one dwelling unit is over part of the other dwelling unit. ~~(See Duplex House.)~~

Enclosed Entrance (or Vestibule): Anteroom, mudroom, or small foyer or lobby leading into a dwelling unit or leading into a larger space in a nonresidential building such as an entrance hall or interior common area.

Erected: The word erected shall include the words attached, built, constructed, reconstructed, altered, enlarged, and moved.

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

Family or Household: An individual or two or more persons related within the second degree of kinship, or by marriage or adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three ~~(3)~~ lodgers or roomers taken for hire. A group of individuals not related by blood or marriage, but living together as a single housekeeping unit, may constitute a household ~~family. For purposes of controlling residential density, each such group of four (4) individuals shall constitute a single family.~~

Farm (or Agriculture): As defined in G.L. c. 128, § 1A.

Flood Map: A map prepared by the Federal Emergency Management Administration (FEMA) designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance components of the National Flood Insurance Program.

~~The Floodplain District includes those areas along the Mill Brook, Alewife Brook, Mystic River, Spy Pond, Arlington Reservoir, and Mystic Lakes which are in the 100-year floodplain as established on the Middlesex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the 100-year floodplain shown on the Middlesex County FIRMs (panel numbers 25017C0412E, 25017C0416E, 25017C0417E, 25017C0418E, and 25017C0419E), dated June 4, 2010, and further defined by the Middlesex County Flood Insurance Report (FIS), dated June 4, 2010.~~

Floodway ~~Floodline~~: The limits of flooding from a particular body of water caused by a storm whose frequency or occurrence is once in a given number of years, as determined by FEMA or a licensed professional acceptable to the Conservation Commission ~~and certified by a registered professional engineer, qualified in drainage.~~

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

Frontage: The front part of a building or lot abutting on a public or private way approved by the Town. Frontage shall be measured in a continuous line along the front lot line between the points

at the intersections of the side lot lines with the front lot line.

Funeral Home: A building used for preparing the deceased for burial and arranging and managing funerals. A funeral home may include a funeral chapel.

Garage, Private: Any building or portion of a building, accessory to and located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located, which is used for the keeping of a motor vehicle or motor vehicles and in which no business or industry dealing with sales, servicing, or repair of such vehicles is carried on.

Garage, Public: Any building used for the keeping of motor vehicles in which a business dealing with the storage of such vehicles is maintained either for profit or public service. Such business shall not involve the repair or servicing of any motor vehicles.

Gross Floor Area: The sum of the ~~gross~~ horizontal areas of the several stories all the floors of a ~~building principal building and its accessory building or buildings on a lot, the same lot,~~ including basements, as measured from the exterior faces of ~~the exterior walls, or in the case of a common wall centerlines of walls separating two buildings, from the centerline of such common wall as regulated under Section 5.3.22.(2) buildings,~~ including:

- a. ~~elevator shafts and stairwells on each floor;~~
- b. ~~that part of attic space with headroom, measured from subfloor to the bottom of the roof joists, of seven feet three inches or more, except as excluded in (4), below;~~
- c. ~~interior mezzanines, and penthouses;~~
- d. ~~basements except as excluded in (2), below; and cellars in residential use;~~
- e. ~~all weather habitable porches and balconies; and~~
- f. ~~parking garages except as excluded in (1), below;~~
but excluding:
 - 1. ~~areas used for accessory parking garages, or off-street loading purposes;~~
 - 2. ~~that part of basements devoted exclusively to mechanical uses accessory to the operation of the building;~~
 - 3. ~~open or lattice enclosed exterior fire escapes;~~
 - 4. ~~attic space and other areas for elevator machinery or mechanical equipment accessory to the operation of the building; and~~
 - 5. ~~porches and balconies."~~

Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and does not exceed ~~20~~twenty feet in height.

Group Home: A dwelling, owned or leased by a state agency or a non-profit organization on behalf of a state agency, operated as a supervised residence for adults with severe disabilities, which may include educational, social, health care, and other supportive services.

~~Rehabilitation Residence: For the purposes of this Bylaw, a building licensed or operated by the Commonwealth of Massachusetts as a Group Residence to provide residential care of alcoholic, drug or mental patients.~~

Health Club: An establishment, operated for profit, providing space or facilities for physical exercise or for participating in sports activity.

Home Occupation: An accessory use which is carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use which does not include. ~~In connection with such use, there is to be no retail sale of merchandise on the premises nor alter the residential character. Such use shall be carried on by the occupants of the lot or building as regulated under dwelling unit in compliance with the provisions of Section 5.9.1. Home occupation shall~~05 and shall not in any manner change the residential character of the building. Home occupations do not include: Personal Service Establishment Uses; Office, Business or Professional Uses; ~~such uses as barber shops, beauty parlors, commercial stables or kennels, or real estate or insurance offices, teaching of more than three pupils simultaneously, or teaching of and in the case of musical instruction, more than one pupil at a time.~~

Hospital: An institution licensed by the Commonwealth of Massachusetts and certified by the American Hospital Association as an accredited hospital providing health services for in-patient and/or out-patient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, out-patient departments, central staff service facilities, and staff offices which are an integral part of the institution.

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

Hotel/Motel: A building in which temporary lodging is offered for compensation, with or without associated amenities.

~~Hotel: A building or any part of a building containing rooming units without individual cooking facilities except for coffee makers, cook plates, and microwave ovens for transient occupancy and having a common entrance or entrances; and including an inn, motel, motor inn and tourist court, but not including a boarding house, lodging house or rooming house.~~

Inspector of Buildings: Inspector of Buildings, Arlington, Massachusetts.

Junk: Any worn out, castoff, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use.

Junk Yard: The use of more than ~~200~~two hundred (200) square feet of the area of any lot,

whether inside or outside a building, or the use of any portion of any lot that joins any street, for the storage, keeping or abandonment of junk.

Loading Space: An off-street space used exclusively for loading and unloading of goods and materials from one vehicle.

~~Loading Space: An off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than one thousand three hundred (1,300) square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Inspector of Buildings to not less than three hundred (300) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.~~

Lot: An area or parcel of land or any part thereof, not including water area, in common ownership; designated on a plan filed with the Inspector of Buildings by its owner or owners as a separate lot and having boundaries identical with those recorded in the Middlesex County Registry of Deeds. ~~A series of two or more attached and/or semi-detached dwellings may under certain conditions be considered to occupy a single lot regardless of ownership.~~

Lot, Corner: A lot at the junction of and abutting on two or more intersecting streets or ways, the interior angle or intersection of street lot lines or, in the case of a curved street, extended lot lines, being not more than ~~135 one hundred thirty-five (135)~~ degrees.

Lot, Interior: A lot, the side lines of which do not abut on a street.

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

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

Lot Line, Front: The property line dividing a lot from a street right-of-way. For purposes of this definition, neither the Minuteman Bikeway nor any railroad right-of-way shall be deemed to be a street right-of-way.

Lot Line, Rear: Any lot line which is parallel to or within 45 degrees of being parallel to a front lot line, except for a lot line that is itself a front lot line, and except that in the case of a corner lot the owner shall have the option of choosing which of the two lot lines that are not front lot lines is to be considered a rear lot line. In the case of a lot having no street frontage or a lot of odd shape, only the one lot line furthest from any street shall be considered a rear lot line.

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

Lot Width: The minimum horizontal distance between the side lot lines, or in the case of a corner lot, the minimum horizontal distance between the side lot line and the opposite lot line.

Manufacturing, Light: The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging products, and incidental storage, sales, and distribution of the same, but excluding basic industrial processing, custom manufacturing, or artisanal fabrication.

Marquee: A rigid surface canopy structure projecting from a building over an exterior entrance thereto and used as a shelter from rain or sun.

Medical Marijuana Treatment Center: A not-for-profit establishment registered with the Commonwealth, also known as a “registered marijuana dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes.²²

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

Mixed Use: A combination of two or more distinct land uses, such as commercial, lodging, research, cultural, artistic/creative production, artisanal fabrication, residential in a single multi-story structure to maximize space usage and promote a vibrant, pedestrian-oriented live-work environment.

Nonconformance: A condition that occurs when a lot, structure, building, sign, development, or land use that legally existed before the effective date of this Bylaw or any amendments to it does not conform to one or more of the regulations that currently applies to the district in which the lot, structure, building, sign, development, or use is located.

Office, Business or Professional: A building or portion of a building used to provide direct services to customers or clientele, such as an insurance agency or a real estate office, or a service that involves some specialized skill or knowledge typically obtained through advanced education and training, such as an attorney or architect. The term "business or professional office" shall not include medical office for a physician, dentist, or other health care professionals. (See "Medical Office".)

~~Office: 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; also, a place in which a professional person conducts his professional business.~~

Office, Medical or Clinic: A building or portion of a building containing offices and facilities for providing medical, dental, psychiatric, and related health care services for outpatients only. "Medical office or clinic" shall not include a hospital.

Open Space: A yard including sidewalks, swimming pools, terraced areas, decks, patios, play courts, patios, play courts, and playground facilities; and not devoted to streets, driveways, off-street parking or loading spaces, or other paved areas.

Open Space, Landscaped: Open space designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces, and also including open areas accessible to and developed for the use of the occupants of the building located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes.

Open Space, Usable: The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts, or similar facilities, or for garden or for household service activities such as clothes drying; which space is at least 75% ~~percent~~ open to the sky, free of automotive traffic and parking, and readily accessible by all those for whom it is required. Such space may include open area accessible to and developed for the use of the occupants of the building, and located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Open space shall be deemed usable only if: (1) at least 75% percent of the area has a grade of less than 8%, and eight (8) percent and (2) no horizontal dimension is less than 25 feet. For newly constructed single-, two-family, and duplex dwellings where parking is at the surface level, no horizontal dimension shall be less than 20 feet."

Outdoor Storage Area: A space outside of a building which is used to keep merchandise for use, goods to be processed, or machinery for use.

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

Parking, Accessory: Parking developed to serve the residents, occupants, employees, patrons, or other users of a building or use, or developed to meet requirements specified in Section 6 of this Bylaw. Article 8.

Penthouse: An enclosed structure above the roof of a building, other than a roof structure, extending not more than 12twelve (12) feet above the roof and occupying not more than 33 1/3% thirty-three and one-third (33-1/3)percent of the roof area.

Personal Service Establishment: Retail establishments primarily engaged in providing individual services generally related to personal needs such as but not limited to a barber shop, hair salon, nail salon, drop-off/pick-up dry cleaning business or self-serve laundry, tailor, or shoe repair shop.

Phased ~~Development or Segmented Project~~: A development project on one lot, or two or more adjoining lots in common ownership or common control for which special permits or building permits are sought within a period of two years from the first date of application for any special or building permits for the development Project.

Planned Unit Development: A development under unified control designed and planned to be constructed in a single operation or by a series of scheduled construction phases according to a special permit and an approved site development plan to accommodate one or more land uses.

~~Planned Development: A development involving the construction of two or more principal buildings on the same lot for any permitted use.~~

Porch: A covered area projecting from and structurally connected to a building.

Recreational Marijuana Establishment: A non-medical marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Recreational Trailer or Vehicle: A vehicular, portable unit designed for travel, camping, or recreational use, including but not limited to the following:

a. Travel Trailer: A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed ~~4,500~~~~forty-five hundred (4,500)~~ pounds, or being of any weight provided its overall length does not exceed ~~28~~~~twenty-eight (28)~~ feet.

b. Pick-Up Camper: A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.

c. Motorized Camper: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

d. Tent Trailer: A folding structure, constructed of canvas, plastic or similar water repellant material, designed to be mounted on wheels to be used as a temporary dwelling.

e. Boat Trailer: A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle."

Repair: With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use, or location of a structure.

Research and Development: ~~An establishment~~ ~~Activities: Establishments~~ used primarily for research, development, ~~and/or~~ testing of innovative information, concepts, methods, processes, materials, or products. This can include but not be limited to renewable or alternative energy research and development activities including the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses."

Restaurant: An establishment where the principal activity is the service or sale of food or drink for on-premises consumption.

Restaurant, Drive-In Food Service Establishment: A fast-order food service establishment ~~that establishment which~~ provides convenient vehicular access and may provide service to customers while in their vehicles, and any fast-order food establishment which provides a greater number of parking spaces than is required by ~~this~~~~the~~ Zoning Bylaw.

Restaurant, Fast-Order Food Establishment: An establishment whose primary business is the sale of food for consumption on or off the premises which is (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Right-of-Way: The line determining the public limit or ownership on a street or highway.

Setback: The shortest horizontal distance from the front lot line to the nearest building wall or building part not specifically excluded ~~in Section 5, by Section 6.19:~~

Shared Vehicle: A passenger vehicle, not to exceed 5,000 pounds gross vehicle weight rating, owned by a membership based entity which makes the vehicles available for rent by the hour or day to its members. Shared vehicles are parked at locations remote from the owner entity. Shared vehicles shall not display advertising other than accessory signage which shall not exceed four square feet in total.

Shed: An accessory structure not greater than 80 square feet used for the storage of tools or equipment.

Sign: Any ~~permanent~~ structure, device, letter, word, model, insignia, trade flag, streamer, display, emblem, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, ~~including illuminated signs. This definition shall include signs located~~ within a window. ~~Awnings, marquees when illuminated. Marquees, canopies, clocks, thermometers, and calendars shall be subject to the provisions of Section 6.2. when used in conjunction with signs as defined above.~~

~~A sign shall be painted, posted or otherwise securely affixed to a substantial intermediate-removable surface and, except for free-standing signs, such surface shall be securely affixed to the face of the building front, which can be street or parking lot frontage, but shall be in a single, unbroken plane. The foregoing shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth of an inch. The material of the sign and intermediate surface and the manner of affixation of the sign to the intermediate surface and of the intermediate surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public."~~

Sign, Accessory: Any sign that, with respect to the premises on which it is erected, advertises or indicates one or more of the following: the person occupying the premises, the business transacted on the premises, and directional or parking instructions, or the sale or letting of the premises or any part thereof.

Sign Area, Area of a Sign, Signage: The entire area within a single continuous perimeter, and a single plane, composed of a square, circle or rectangle which encloses the extreme limits of the advertising message or announcement or wording together with any frame, background, trim or other integral part of the display excluding the necessary supports or uprights on which such sign is placed. Sign area of a standing or pole sign is the entire area of one side of such sign such that

two faces which are back to back are counted only once for the purposes of standing or pole sign area.

Sign, Awning: A sign applied directly to or incorporated as part of an awning.

Sign, ~~Bracket~~~~Brackett~~: A sign mounted perpendicular to the building by means of a bracket, the design of which is meant to be decorative and integral to the sign's design, below which hangs the sign in a manner to withstand public or property damage from wind.

Sign Canopy: ~~Roof-like~~~~Rooflike~~ covering, as a canvas, on a frame that is affixed to a building projecting over a sidewalk portion of a way, and carried by a frame supported upon the ground or sidewalk.

Sign, Facing or Face: The surface of a sign board, background area, and structural trim upon, against or through which a message is displayed or illustrated on the sign.

Sign, Freestanding: A sign not a part of or attached to any building but generally located elsewhere on a lot.

Sign, Ground: A free-standing sign located on or close to the ground, the top of which shall not be higher than ~~4four (4)~~ feet above the ground.

Sign, Permanent: Any sign as defined above, intended to be erected and maintained for more than ~~60sixty (60)~~ days.

Sign, Portable: A free-standing sign not permanently affixed, anchored, or secured to the ground or a structure on the lot it occupies, including trailered signs but excluding signs affixed to or painted on a vehicle.

Sign, Projecting: Any sign which is attached to a building or other structure and any part of which projects more than ~~12twelve (12)~~ inches from the wall surface of that portion of the building or structure in front of which the sign is positioned

Sign, Roof: Any sign erected, constructed and maintained upon or over the roof of any building.

Sign, Standing or Pole: A free-standing sign not exceeding ~~15fifteen (15)~~ feet in height with ~~8eight (8)~~ feet of clearance under the sign area and erected upon supporting devices or stands.

Sign, Temporary: Any sign, including its supporting structure intended to be maintained for a continuous period not to exceed ~~60sixty (60)~~ days.

Sign, Wall: A sign not exceeding ~~4four (4)~~ feet in height securely affixed to a wall projecting no more than ~~12twelve (12)~~ inches from and parallel to the face of such wall, not projecting beyond the building face fronting on a street or parking lot nor above the highest line of the building to which it is attached. A wall sign shall be no higher than the lowest of the following: ~~25(a) twenty-five (25)~~ feet above grade; (b) the bottom of the sills of the first level of windows above

the first story; or (c) the cornice line of the building at the building line. If attached to a parapet, a sign shall not exceed the height of the parapet.

Sign, Primary Wall: A sign on the building face fronting on a street or parking lot frontage.

Sign, Secondary Wall: A sign located on any building face fronting on a street or parking lot frontage other than that of the primary wall sign. The cumulative area of all secondary wall signs shall not exceed ~~50%~~fifty (50) percent of the maximum possible area of the primary wall sign.

Signs, Window: Signs intended to be viewed from the exterior that are painted or posted on an interior transparent or translucent surface including windows and doors, or interior to and within 12 inches of such a surface. The area of a window sign shall not exceed 25-% of the area visible from the exterior of the building.

Notice: Temporary signs erected by a person, a town committee, student organization or non-profit organization for the purpose of advertising an individual yard sale, non-commercial public event, or lost pet.

Special Permit: A use of a structure or lot or any action upon a premises which may be permitted under this Bylaw only upon application to and the approval of the Zoning Board of Appeals or Arlington Redevelopment Board, as applicable, Board and in accordance with provisions of Section 3 of this Bylaw~~Article 10~~.

Special Permit Granting Authority: The Zoning Board of Appeals, or in the case of a special permit which qualifies for Environmental Design Review under Section 3 of this~~11.06 of the Zoning~~ Bylaw, the Arlington Redevelopment Board.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed ~~to be~~ a story when its ceiling is ~~4 feet 6~~ ~~four~~ ~~(4) feet six~~ ~~(6)~~ inches or more above the finished grade. A cellar shall not be deemed ~~to be~~ a story. An attic shall not be deemed ~~to be~~ a story if unfinished and not used for human occupancy.

Story, Half: A story which is under a gable, hipped, or gambrel roof, where less than one half the floor area measured from the underside of the roof framing to the finished floor below has a clear height of ~~7 feet 3~~ ~~seven feet three~~ inches or more.

Street: A public or private way which is 27 feet or more ~~feet~~ in right-of-way width, ~~which is~~ accepted or devoted to public use by legal mapping or by any other lawful procedure. It shall be synonymous with the word road, avenue, highway, and parkway, and other similar designations.

Structure: A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, wireless communications facility, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelter, pier, wharfshelters, piers, wharves, bin, fence, sign, shed, or the like.

Tract: A unit or contiguous units of land under single ownership or control.

Trailer: Any vehicle which is immediately portable, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate, including a mobile home, house trailer or camper. A trailer, whether immediately portable or no longer immediately portable ~~because by virtue of having~~ its wheels have been removed or skirts have been attached, shall not be considered a building ~~infor the purposes of~~ this Bylaw.

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

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure.

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

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied, or maintained under this Bylaw.

Use, Substantially Different: A use which ~~because by reason~~ of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment, or similar characteristics from the use to which it is being compared.

Variance: ~~A~~Such departure from the terms of this Bylaw as the Board of Appeals may authorize under this Bylaw and G.L. c. 40A, § 10. ZBA, upon appeal in specific cases, is empowered to authorize under the terms of Article 10.

Wireless Communications Facility: An assemblage of equipment intended to receive and/or transmit radio waves for ~~the purpose of~~ providing wireless communications consisting of, but not limited to, antennas and mounting brackets, antenna support structures, electrical equipment in cabinets or enclosed shelters or in other enclosed space, co-axial cables and back-up power equipment or generators.

Yard: An open space unobstructed from the ground up, on the same lot with a principal building, extending along a lot line or front lot line and inward to the principal building. The size of a required yard shall be measured as the shortest distance between the line of the building wall (or building part not specifically excluded under this Bylaw)~~by Section 6.19~~ and a lot line. Structures ~~that which~~ are below the finished lot grade, ~~including shelters for nuclear fallout~~ shall not be deemed to occupy required yards.

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

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

Yard, Side: A yard unoccupied, except by an accessory structure or use as herein permitted, between the line of the building wall and a side lot line extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

Zoning Board of AppealsZBA: The Zoning Board of Appeals of the Town of Arlington, Massachusetts (“Board of Appeals” or “ZBA”).

Section 3. Administration and Enforcement

3.1 Building Inspector; Enforcement.
~~Section 10.01 – Administrative Official.~~

A. The Building Inspector appointed under the provisions of G.L. c. 143 is hereby designated and authorized as the officer charged with the administration and enforcement of this Bylaw. It shall be the duty of the Inspector Of Buildings to administer and enforce the provisions of this Bylaw.

~~B. No person shall Section 10.02 – Permit Required. It shall be unlawful for any owner or person to erect, construct, reconstruct, convert, or alter a structure, or change the use or lot coverage, increase the intensity of use, or extend or displace the use of any building, other structure or lot without applying for and receiving the required permit(s) from the Building Inspector from the Inspector of Buildings the required building permit therefor. For purposes of administration, such permit and application procedure involving a structure may be made at the same time and combined with the permit required under the Building Code.~~

C. No premises and no building erected, altered, or in any way changed as to construction or use of any building or of any parcel of land under a permit or otherwise, shall be occupied or used without a certificate of occupancy issued by the Building Inspector. No certificate of occupancy shall be issued until the premises, structure, and its uses and accessory uses comply in all respects with this Bylaw. If applicable, a site plan certificate of completion shall be issued. An application for a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this Bylaw. A record of all applications, plans, and permits shall be kept on file by the Inspector of Buildings. The Inspector of Buildings shall take action on an application for a permit, either granting the permit or disapproving the application, within thirty (30) days of receipt of the application.

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

~~Section 10.04 – Certificate of Occupancy Required. No building hereafter erected, altered substantially in its use or extent or relocated shall be used or occupied, and no change shall be made of the use of any building or of any parcel of land, unless a certificate of occupancy signed by the Inspector of Buildings has been granted to the owner or occupant of such land or building. Such certificate shall not be granted unless the proposed use of the land and building and all accessory uses comply in all respects with this Bylaw and no use shall be made of such land or building that is not authorized by such certificate of occupancy.~~

~~Applications for certificates of occupancy and compliance shall be filed coincident with the application for building permits and shall be issued or refused in writing for cause within five (5)~~

~~days after the Inspector of Buildings has been notified in writing that the erection or alteration of such buildings has been completed. Failure of the Inspector of Buildings to act within five (5) days of receipt of said notification shall be deemed to constitute approval of the application for a certificate of occupancy. A record of all certificates shall be kept on file in the office of the Inspector of Buildings. Buildings accessory to dwellings when completed at the same time shall not require a separate certificate of occupancy. Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building, pending its completion. No temporary certificate shall be issued prior to its completion if the building fails to conform to the provisions of the Building Code and state laws or of this Bylaw to such a degree as to render it unsafe for the occupancy proposed.~~

3.1.2. Enforcement.

Section 10.08 - Notice of Violation:

A. Any person may file a written request to the Building Inspector for enforcement of this Bylaw with reference to an alleged violation, as provided in G.L. c. 40A, § 7. Within fourteen (14) days of receipt of the request, the Building Inspector shall investigate the facts and inspect the alleged violation and, if the Building Inspector finds evidence of a violation, the Building Inspector shall give written notice to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Inspector deems reasonable. The notice and demand may be given by mail, addressed to the owner at the address as it then appears on the records of the Board of Assessors, and to the occupant at the address of the premises.

B. If after notice and demand the violation has not been abated within the time set by the Building Inspector, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Arlington to prevent, correct, restrain, or abate such violation.

C. If the Building Inspector determines that there is no violation, the Building Inspector shall give written notice of the decision to the complaining person within 14 days after the receipt of such request.

~~If the Inspector of Buildings shall be informed or have reason to believe that any provision of this Bylaw has been, is being or may be violated, he shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist within 14 days of the receipt of a written complaint. If he shall find any such violation, he shall serve a WARNING to any owner or person responsible for such violation of the provisions of this Bylaw or the Town Bylaws, or in violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this Bylaw, and such WARNING shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the Inspector of Buildings. Any owner, who having been served with a WARNING, and who ceases any work or other activity, shall not leave any structure or lot in such conditions as to be a hazard or menace to the public safety, health, morals or general welfare.~~

3.1.3. Appeal.

10.10 e. APPEALS.

An appeal to the Board of Appeals may be taken by any person aggrieved due to inability to obtain a permit or enforcement action from the Building Inspector, as provided in G.L. c. 40A, § 8, as amended.

~~1. Any person aggrieved by reason of his inability to obtain a permit from the Inspector of Buildings under the provisions of this Bylaw, by any officer, department or board of the town, or by any order or decision of the Inspector of Buildings or other town official in violation of any provision of this Bylaw may take an appeal to the ZBA.~~

3.1.4. Penalty.

Section 10.09 - Prosecution of Violation:

A. If the notice of ~~violation~~~~WARNING~~ is not complied with according to the time specified in ~~the noticesaid~~~~WARNING~~, the ~~Building Inspector may, in accordance with G.L. c. 40, § 21D, Inspector of Buildings, pursuant to the provisions of MGL Chapter 40, Section 21D, may~~ institute a non-criminal complaint(s) with penalty. Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this Bylaw shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.

B. ~~The Building Inspector may~~~~The Inspector of Buildings may also~~, with the approval of the Board of Selectmen, institute the appropriate criminal action or proceeding at law or in equity to prevent any unlawful action, use or condition, and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed three-~~hundred~~ hundred dollars (\$300.00) for each offense. Each day, or portion of a day, in which a violation exists shall be deemed that any violation is allowed to continue shall constitute a separate offense.

~~Section 10.06 - Permit and Certificate Fees~~

~~Fees shall be as established by of the Bylaws of the Town of Arlington.~~

~~Section 10.07 - Permit Time Limits~~

~~Any work for which any permit has been issued by the Inspector of Buildings shall be commenced within the time period specified in the Massachusetts State Building Code.~~

3.2 ZoningSection 10.10- Board of Appeals - 3.2.1. Establishment.

~~a. MEMBERSHIP. There shall be a Zoning Board of Appeals (“Board of Appeals”) consisting of five ZBA consisting of five (5) members and two associate members appointed by the Board of Selectmen. All members(2) associate members. All members of said ZBA shall be residents of the Board of Appeals shall be Arlington residentsTown of Arlington, one (1) member shall be an attorney-at-lawAttorney-At-Law, and at least one of the remaining members shall be a registered architect or a registered professional engineer. The appointment, service, and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in G.L. c. 40A.~~

~~b. APPOINTMENT. Members of the ZBA in office at the effective date of this Bylaw shall continue in office for the duration of their appointed term. However, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.~~

3.2.2. Powers.

10.10 c. POWERS:

The Board of Appeals Under this Bylaw, the ZBA shall have the following powers:

A1. To hear and decide appeals in accordance with G.L. c. 40A, § 8, as amended. -

B2. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 9, -applications for special permits when designated as the Special Permit Granting Authority herein for exeptions.

C. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 6, applications for special permits to change, alter, or extend lawfully pre-existing non-conforming uses and structures to the extent allowed by Section 5.5.

3. To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this Bylaw.

D. To hear and decide petitions for variances in accordance with G.L. c. 40A, § 10.

In exereising the powers under paragraph 3. above, the ZBA may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter.

E. To hear and decide applications for comprehensive permits for construction of low or moderate-income housing, as set forth in G.L. c. 40B, §§ 20-23.

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

Section 10.12 -- Variances

The Zoning Board of Appeals is empowered to grant variances to the provisions of this Bylaw in accordance with Section 10 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

3.2.3. Rules and Regulations

10.10 d. ADOPTION OF RULES:

The Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of such regulations with the Town Clerk. The Board's regulations shall include rules for hiring outside consultants.

~~The ZBA shall adopt rules, pursuant to the Zoning Act and not inconsistent with the provisions of the bylaws of the town, for conducting its business and otherwise carrying out the purposes of the Zoning Bylaw. A copy of such rules shall be filed in the office of the Town Clerk. Meetings of the ZBA shall be held at the call of the Chairman, and also when called in such other manner as the ZBA shall determine in its rules.~~

A4. The Chairman of the BoardZBA, or in his absence the Acting Chairman, may administer oaths, but must do so for hearings involving G.L. c. MGL Chapter 40B, summon witnesses and call for the production of papers. All hearings shall be open to the public. The BoardZBA and all permit and special permit granting authorities shall hold hearings and render decisions in accordance with the applicable time limitations as set forth in G.L. c. 40A §§ 9 and 15 Sections 9 and 15 of the Zoning Act. The BoardZBA shall cause to be made a detailed record of its proceedings which in the case of G.L. c. MGL 40B hearings shall require that all testimony be electronically recorded, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reasons for its decisions, and of its other official actions, copies of all of which shall be filed within 14 within fourteen (14) days in the office of the Town Clerk and the office of the Arlington Redevelopment Board ARB and shall be a public record, and notice or decisions shall be mailed immediately to the petitioner and to the owners of all property deemed by the Board to be affected thereby, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another city or town, as they appear on the most recent local tax list parties in interest as designated in paragraph e.3. above, and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent. Upon the granting of a limited or conditional zoning variance or special permit, the BoardZBA shall issue to the land owner a notice, certified by the chairman or clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the BoardZBA on file in the office of the Town Clerk. No such variance or permit shall take effect until such notice is recorded in the Middlesex County Registry of Deeds.

The fee for recording such notice shall be paid by the owner and the notice shall be indexed in the grantor index under the name of the owner of record.

The concurring vote of all members of the Board shall be necessary to reverse any order or decision of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Bylaw, or to effect any variance in the application of this Bylaw.

3.2.4. Fees

The Board of Appeals may adopt reasonable administrative fees and fees for employing outside consultants to assist the Board with is review of special permits, variances, administrative appeals, and applications for comprehensive permits in accordance with its regulations, in accordance with G.L. c. 44, § 53G and § 53G-1/2.

3.2.5. Repetitive Petitions

No appeal or petition for a variance from the terms of this Bylaw denied by the Board of Appeals, or special permit denied by either the Board of Appeals or Arlington Redevelopment Board shall be considered again on its merits within two years from after the date of denial action except under the following circumstances:

A. At least all but one member of the Arlington Redevelopment Board votes to allow the refiling of the application, and

B. The Board that denied the initial application then finds, by a unanimous vote of a board of three members or by a vote of four members of a board of five members or two-thirds vote of a board of more than five members, specific and material changes in the conditions upon which the previous unfavorable action was based.

~~10.10(e) 5. No appeal or petition under paragraph e.3. above for a variance from the terms of this Bylaw with respect to a particular parcel of land or the building thereon, and no application under paragraph e.2. above for a special permit under the terms of this Bylaw, which has been unfavorably acted upon by the ZBA shall be considered on its merits by said ZBA within two (2) years after the date of such unfavorable action except with the consent of all but one of the members of the ARB; provided, however, that an annulment of a favorable decision of said ZBA by the Court pursuant to the authorization contained shall not constitute unfavorable action within the meaning of this paragraph.~~

10.10 c. APPEALS.

1. Any person aggrieved by reason of his inability to obtain a permit from the Inspector of Buildings under the provisions of this Bylaw, by any officer, department or board of the town, or by any order or decision of the Inspector of Buildings or other town official in violation of any provision of this Bylaw may take an appeal to the ZBA.

2. Any person desiring to obtain the permission of the ZBA for any purpose for which such permission is required under the provisions of this Bylaw shall make application in writing therefor within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk. The Town Clerk shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the members of the ZBA. Such officer or board shall forthwith transmit to the ZBA all documents and papers constituting the record of the case in which the appeal is taken.

3. The ZBA shall fix a reasonable time for the hearing of any appeal or other matter referred to it or any petition for a variance, and shall cause the notice of the time and place of such hearing thereof and the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and also before the day of the hearing shall send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the ZBA to be affected thereby, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another city or town, as they appear on the most recent local tax list, and to the ARB. The publication required by this section shall contain the following printed in bold face type: (1) the name of the petitioner; (2) the location of the area or premises which are the subject of the petition; and (3) the date and place of the public hearings. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or by attorney.

f. OTHER REQUIREMENTS. The granting of any appeal by the ZBA shall not exempt the applicant from any provision of this Bylaw not specifically ruled upon by the ZBA or specifically set forth as exception in this particular case from a provision of this Bylaw. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the ZBA in authorizing a special permit or variance without appealing to the ZBA as a new case over which the ZBA shall have complete administrative power to deny, approve or modify.

3.3 Special Permits - 3.3.1. Special Permit Granting Authority
Section 10.11 - Special Permits

In this Bylaw, the Board of Appeals and Arlington Redevelopment Board have the power to grant special permits. The appropriate Special Permit Granting Authority is specifically designated where applicable.

~~Certain uses, structures or conditions are designated as special permit uses in Article 5, Table of Use Regulations, and elsewhere in this Bylaw. Upon written application duly made to the ZBA, or to the ARB for uses that come under the provisions of Section 11.06, the ZBA or the ARB may, in appropriate cases subject to the applicable conditions set forth in Article 11 of this Bylaw and elsewhere and subject to other appropriate conditions and safeguards, grant a special permit for such uses or conditions and no others.~~

3.3.2. Procedures

A. Application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority and G.L. c. 40A.

B. Public Hearing. The Special Permit Granting Authority shall hold a public hearing within 65 days of receipt of a special permit application, and shall issue and file a decision no later than 90 days from the date of the public hearing. Notification requirements for a public hearing shall be in accordance with G.L. c. 40A, § 11.

~~In addition to new uses of buildings or of land which require(s) a special permit according to Section 5.04, other uses in the Table of Use Regulations shall be subject to a special permit when: one use is converted to another use category or subcategory listed as a special permit use in Section 5.04 for the District in question; a special permit use is expanded so that its cumulative size exceeds a threshold specified in Section 5.04 (for example, a retail use or building exceeding 3,000 square feet in total floor area per Principal Use 6.16); changes are made in the exterior of a structure housing a special permit use, including uses which have not previously been granted a special permit; or material changes in use characteristics occur within the same use category for Vehicular Oriented Businesses (uses 6.01 to 6.05) or Eating Establishments (uses 6.12 to 6.14) which are listed as special permit uses, including uses which have not previously been granted a special permit. Material changes in use characteristics shall include changes in business practices or occupancy which result in a change in the principal product or service being traded, such as a fast food hamburger establishment replacing a fast food ice cream establishment or an automotive muffler shop replacing an automotive tune-up establishment.~~

3.3.3. Decision Criteria

Unless otherwise specified herein, special permits shall be granted by the Special Permit Granting Authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the characteristics of the site and of the proposal in relation to that site. The determination shall include findings that all of the following criteria for granting a special permit are met:

~~10.11 a. Before granting an application for a special permit for a use listed in Section 5.04, the ZBA or the ARB with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following special permit standards to be met:~~

3.3.3. Decision Criteria

10.11(a)

A. 1. The use requested is listed ~~in the Table of Use Regulations~~ as a special permit use in the use regulations for the applicable district~~district for which application is made~~ or is so designated elsewhere in this Bylaw.

B2. The requested use is essential or desirable to the public convenience or welfare.

C3. The requested use will not create undue traffic congestion; or unduly impair pedestrian safety.

D. 4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

E5. Any special regulations for the use as may be provided in this Bylaw,~~set forth in Article 11~~, are fulfilled.

F. 6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health,~~morals~~, or welfare.

G7. The requested use will not, by its addition to a neighborhood, cause an excess of the that-particular use that could be detrimental to the character of said neighborhood.

3.3.4. Special Permit Conditions

Special permits may be granted with such reasonable conditions, neighborhood safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw. Such conditions may include but shall not be limited to the following:

A. Dimensional standards more restrictive than those set forth in Section 7 of this Bylaw;

B. Screening buffers or planting strips, fences, or walls;

C. Modification of the exterior appearance of the structures;

D. Limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities;

E. Limitations on signage, noise, or hours of operation of construction equipment;

F. Regulation of number and location of driveways, or other traffic features;

G. Off-street parking or loading or other special features beyond the minimum required by this Bylaw;

H. Deadline to commence construction;

I. Requirements pertaining to integrated emergency or alarm systems, maintenance, landscaping, dust control, bond or other performance guarantee;

J. Requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Inspector, if necessary to ensure continuing compliance with the conditions of a special permit or of this Bylaw;

K. Limitation on the term or duration of a special permit, with or without automatic renewals, to the extent allowed by law;

L. Other limitations as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

~~10.11 b. The ZBA or the ARB shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this Bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other~~

~~security for compliance with said conditions in an amount satisfactory to the ZBA or the ARB. Any special permit granted under this section shall lapse within two years if a substantial use thereof has not sooner commenced except for good cause, in the case of permit for construction, if construction has not begun by such date except for good cause.~~

3.3.5. Recording; Lapse

A. Special permits or any extension, modification or renewal thereof shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time. Proof of recording with the Middlesex South Registry of Deeds or Registry District of the Land Court, as applicable, shall be presented to the Building Inspector.

B. Special permits shall lapse within three years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause.

~~10.11 c. In order that the ZBA, or in cases subject to Section 11.06, the ARB may determine that the above-mentioned special permit standards are to be met, a site plan shall be submitted, in duplicate, to the ZBA, or ARB as appropriate, by the applicant. In the case of Special Permits for uses, listed in the Table of Use Regulations, all such site plans shall be prepared, signed and stamped by a professional land surveyor or professional engineer registered in Massachusetts unless the Special Permit Granting Authority waives the requirement in writing~~

~~Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse and other waste disposal, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.~~

~~The ZBA shall within ten (10) days after receipt thereof transmit one copy of such plan to the ARB. The ARB may, in its discretion, investigate the case and report in writing its recommendations to the ZBA.~~

~~The ZBA shall not take final action on such plan until it has received a report thereon from the ARB or until said ARB has allowed thirty (30) days to elapse after receipt of such plan without submission of a report thereon.~~

~~3.4~~Section 11.06 - Environmental Design Review

3.4.1. Purposes

a. ~~PURPOSE.~~

The purpose of ~~Section 3.4~~~~this section~~ is to provide individual detailed review of certain uses and structures ~~that~~~~which~~ have a substantial impact ~~on~~~~upon~~ the character of the town and ~~on~~~~upon~~ traffic, utilities, and property values ~~therein~~, thereby affecting the public health, safety and general welfare ~~thereof~~. The environmental design review process is intended to promote the ~~purposes~~ ~~specific purpose listed~~ in Section 1.03 of this Bylaw. ~~For the purpose of implementation of this Section, the ARB is designated as the Special Permit Granting Authority in accordance with the provisions of Chapter 40A, Section 1.~~

3.4.2. Applicability

b. APPLICATION:

~~1-~~ In any instance where a new structure, or a new outdoor use, or an exterior addition or a change in use (a) requires a building permit and, ~~(b) is subject to a special permit in accordance with use regulations for the applicable district or (b) Section 5.04, Table of Use Regulations, or~~ alters the ~~façade~~façade in a manner that affects the architectural integrity of the structure, and c) is one of the uses listed included in subparagraphs (a), (b), (c), (d), (e), (f), (g), or (h) below, the ~~aforementioned~~ special permit shall be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards of this Section 3.4 hereinafter specified.

A. Construction or reconstruction on a site abutting any of the following: Massachusetts Avenue, Pleasant Street, Mystic and Medford Streets between Massachusetts Avenue and Chestnut Street, Broadway, or the Minuteman Bikeway.

~~(a) Construction or reconstruction on a site abutting~~

~~Massachusetts Avenue~~

~~Pleasant Street~~

~~Mystic & Medford Streets between Massachusetts Avenue and Chestnut Street~~

~~Broadway~~

~~Minuteman Bikeway~~

B.(b) Six or more dwelling units on the premises, whether contained in one or more structures or on one or more contiguous lots, to be constructed within a two-year period.

C. Auto(e) Gasoline service stations.

D. Single-room occupancy building or (d) Lodging house, bed and breakfast, bed and breakfast, ~~home or a rehabilitation residence~~ with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

E.(e) Nonresidential uses and hotels/~~or~~ motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.

E.(f) Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

G. Mixed-Use.

H.(g) Outdoor uses.

I.(h) Temporary, seasonal signage in accordance with an overall signage plan at a fenced athletic field with one or more permanent structures to seat more than 300 persons, which signage may be in effect between March 15 and December 15 of any calendar year.

J. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District.

(i) Mixed Use

K. Parking in the Open Space District.

~~2. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District shall be subject to the environmental design review procedures and standards hereinafter specified.~~

L. Medical Marijuana Treatment Center.

~~3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.~~

M. Use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; or the use of land or structures for a child care facility; provided, however, as provided and limited by the provisions of G.L. c. 40A, § 3, that the Board's authority shall be limited to reasonable regulation of the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements.

~~4. Use 7.10 (Medical Marijuana Treatment Center) shall be subject to the environmental design review procedures and standards hereinafter specified.~~

3.4.3. Procedures

11.06 c. PERMIT AND PROCEDURE.

A. Application. Applicants ~~1. Uses subject to the provisions of this section may be allowed by special permit. Any person desiring such a permit shall submit an application for Environmental Design Review to the ARB in accordance with the Arlington Redevelopment Board's ("Board") rules and regulations. application procedure for special permits.~~

B. The Board shall hold a public hearing in accordance with Section 3.3 of this Bylaw and G.L. c. 40A, §§ 9 and 11.

~~A copy of the application with the accompanying plans, photographs, and sign permit application shall be submitted at the same time to the Department of Planning and Community Development.~~

C. The Board shall refer the application to the Department of Planning and Community Development ("Department"), which shall prepare and submit written reports with recommendations to the Board before or at the public hearing. The Board shall not take final action on the special permit application until it has received the Department's report or until 35 days have elapsed after submittal of the proposal to the Department. Failure of the Department to submit written reports or to give an oral report at the public hearing shall not invalidate action by the Board.

~~2. Planned Unit Development District. Every developer in a Planned Unit Development district shall file an application for an environmental design review. The application shall include the material listed in 11.06(d), as well as the following:~~

D. A favorable decision by the Board shall require the votes of at least four members.

~~(a) The plans shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the building(s), setbacks, and all other required dimensions, elevations, and measurements and further that the plan be signed under the penalties of perjury.~~

~~(b) The corner points of the lot (or lots under common ownership) and the change of direction of lines to be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker, and shall be so marked.~~

~~The ARB shall review the plans and model and may grant a special permit subject to the conditions and safeguards listed in Section 10.11(b). The ARB for stated reasons may deny approval of a special permit or may approve a special permit without a finding of hardship.~~

~~The site plan shall be subject to the standards listed in Section 11.06(f) and the ARB shall make a determination that the project meets these standards.~~

~~Before granting a special permit, the ARB shall hold a public hearing, notice of which shall be given in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen (14) days before the date of hearing, and to owners of all property abutting the proposed development or land in the same ownership or contiguous ownership, and to all~~

property owners deemed by the ARB to be affected thereby. The ARB shall make a copy of the site plan, the model, the application and any other supporting material submitted, immediately available to the Department of Planning and Community Development and they shall have an opportunity to prepare written reports with recommendations to be submitted to the ARB before or at the public hearing. The failure of the Department of Planning and Community Development to submit written reports or to give an oral report at the public hearing shall not invalidate action by the ARB. A favorable decision by the ARB shall require the votes of at least four members of said Board.

d. ~~REQUIRED SUBMITTALS.~~ In addition to the site plan required for special permits in Section 10.11(c) of this Bylaw, the application shall be accompanied by the following:

1. ~~Model.~~ An inexpensive study model or final presentation model at a minimum scale of 1" = 40' showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes in use which increase gross floor area by less than 100 percent.)

2. ~~Drawing of Existing Conditions.~~ A drawing (at a minimum of 1" = 20' unless another scale is found suitable by the Department of Planning and Community Development) showing the location, type, size, or dimension of existing trees, rock masses, existing topography at two (2)-foot contours, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit, all existing trees, rock masses, and other natural features shall be retained until a special permit is approved.

3. ~~Drawing of Proposal.~~

(a) ~~Structure:~~ a drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.

(b) ~~Landscape:~~ a drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed topography at two (2) foot contours.

4. ~~Photographs.~~ Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.

5. ~~Impact Statement.~~ Statement by applicant with explanation of how each of the environmental design review standards is incorporated into the design of the proposed development. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.

6. ~~Application for permit and accompanying plans as specified under Section 10.05 for each sign that is to be erected on the proposed structure(s).~~

~~7. In lieu of the required submittals listed above, an application for a special permit under Use 8.24 of Section 5.04 shall include an overall signage plan comprised of the information required under Section 7.08(b) as well as perspectives, renderings, photographs, models, or other representation sufficient to show the nature of the proposed overall signage plan and its effect on the immediate surroundings.~~

~~e. ARLINGTON REDEVELOPMENT BOARD PROCEDURE. The ARB shall within 10 days refer the proposal and model thereof to the Department of Planning and Community Development which for the purposes of this section shall serve in an advisory capacity to the ARB. The Department of Planning and Community Development shall evaluate the proposed use on the basis of the standards set forth in paragraph f. of this section and Section 10.11(a), using outside consulting services when appropriate, and shall submit its findings and recommendations in a design review report to the ARB which specifically addresses each standard individually.~~

~~The ARB shall not take final action on an application for a special permit under this section until it has received the design review report or until 30 days have elapsed after submittal of said proposal to the Department of Planning and Community Development.~~

~~E. The Board~~The ARB shall not deny a special permit under this Section 3.4 required by this section unless it finds that the proposed use does not comply with the Environmental Design Review Standards listed below ~~standards listed in paragraph f.~~ to such a degree that such use would result in a substantial adverse impact upon the character of the neighborhood or the town in which the use is proposed, or of the town and upon traffic, utilities, and public or private investments ~~therein~~, thereby conflicting with the purposes of this Bylaw.

3.4.4. Environmental Design Review Standards

~~11.06 f. ENVIRONMENTAL DESIGN REVIEW STANDARDS.~~

The following standards shall be ~~used~~utilized by the ~~Arlington Redevelopment~~ Board and the Department of ~~Planning and Community Development~~ in reviewing ~~all~~ site and building plans. ~~The~~These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. ~~They~~ ~~These standards~~ shall not be regarded as inflexible requirements and they. ~~They~~ are not intended to discourage creativity, invention, and innovation. ~~The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in subsections (1) through (11) below shall also apply to all accessory buildings, structures, free-standing signs and other site features, however related to the major buildings or structures.~~

The specification of one or more architectural styles is not included in these standards. The Board may adopt design guidelines to supplement these standards in order to administer this Section 3.4, and maintain those guidelines on file with the Department and the Town Clerk. The standards of review outlined in subsections A through K below shall also apply to all accessory buildings, structures, free-standing signs and other site features, however related to the major buildings or structures.

Section ~~3.4.411.06(f)~~

~~A. 1.~~ Preservation of Landscape. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

~~B2.~~ Relation of Buildings to Environment. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Arlington Redevelopment Board may require a modification in massing ~~so as~~ to reduce the effect of shadows on abutting property in an R0, R1 or R2 district or on public open space.

~~C3.~~ Open Space. All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance.

~~D4.~~ Circulation. With respect to vehicular, pedestrian and bicycle circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of vehicle parking and bicycle parking areas, including bicycle parking spaces required by Section 8.13 that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

~~E5.~~ Surface Water Drainage. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Available Best Management Practices for the site should be employed, and include site planning to minimize impervious surface and reduce clearing and re-grading. Best Management Practices may include erosion control and stormwater treatment by means of swales, filters, plantings, roof gardens, native vegetation, and leaching catch basins. ~~catchbasins.~~ Stormwater should be treated at least minimally on the development site; that which cannot be handled on site shall be removed from all roofs, canopies, paved and pooling areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

In accordance with Section 10.11, b, the Board may require from any applicant, after consultation with the Director of Public Works, security satisfactory to the Board to insure the maintenance of all stormwater facilities such as catch basins, leaching catch basins, detention basins, swales, etc. within the site. The Board may use funds provided by such security to conduct maintenance that the applicant fails to do.

The Board may adjust in its sole discretion the amount and type of financial security such that it is satisfied that the amount is sufficient to provide for the future maintenance needs.

F6. Utility Service. Electric, telephone, cable TV and other such lines and equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.

G7. Advertising Features, subject to the provisions of Section 6.2 below. The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

H8. Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

I9. Safety. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.

J10. Heritage. With respect to Arlington's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

K11. Microclimate. With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment.

L12. Sustainable Building and Site Design. Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership [®]in Energy and Environmental Design (LEED[®]-) checklist, appropriate to the type of development, [®]annotated with narrative description, that indicates how the LEED[®] performance objectives will be incorporated into the project.

Section 4. Establishment of Districts

4.1 Section 3.01 - Establishment of Districts.

For ~~the~~ purposes of this Bylaw, the Town of Arlington is ~~hereby~~ divided into the following districts~~19 districts to be known as:~~

~~Full name and class~~ ~~Short name~~

~~Residence 0 Residential R0~~

~~Residence 1 Residential R1~~

~~Residence 2 Residential R2~~

~~Residence 3 Residential R3~~

~~Residence 4 Residential R4~~

~~Residence 5 Residential R5~~

~~Residence 6 Residential R6~~

~~Residence 7 Residential R7~~

~~Business 1 Business B1~~

~~Business 2 Business B2~~

~~Business 2A Business B2A~~

~~Business 3 Business B3~~

~~Business 4 Business B4~~

~~Business 5 Business B5~~

4.1.1. Use Districts

~~Multi-Use Multi-Use MU~~

~~Planned Unit Development Planned Unit Development PUD~~

~~Industrial Industrial I~~

~~Transportaion Transportation T~~

~~Open Space OS~~

A. Residential

(1) Residence 0 (R0)

(2) Residence 1 (R1)

(3) Residence 2 (R2)

(4) Residence 3 (R3)

(5) Residence 4 (R4)

(6) Residence 5 (R5)

(7) Residence 6 (R6)

(8) Residence 7 (R7)

B. Business

(1) Business 1 (B1)

(2) Business 2 (B2)

(3) Business 2A (B2A)

(4) Business 3 (B3)

(5) Business 4 (B4)

(6) Business 5 (B5)

C. Other Districts

(1) Industrial (I)

(2) Multi-Use (MU)

(3) Planned Unit Development (PUD)

(4) Transportation (T)

(5) Open Space (OS)

~~Residential Districts, as a group, are herein referred to as "R" districts.~~

4.1.2. Overlay Districts

~~Business Districts, as a group, are herein referred to as "B" districts.~~

(1) Floodplain District

(2) Inland Wetland District

~~4.2~~Section 3.03 - Zoning Map

~~Zoning districts are~~ The location and boundaries of the Zoning Districts are hereby established as shown on a map entitled "Zoning Map of the Town of Arlington, MA" and dated May 19, 2015 (the Zoning Map) Massachusetts," dated April, 1998 and on file in the Office of the Town Clerk and the Department of Planning and Community Development. The district boundaries shown on the Zoning Map, which map, including an overlay map entitled "'Wetland and Floodplain Overlay" are part of this bylaw. The Zoning Map may include geographical features, streets, notations, and such other information to keep the map current and to facilitate orientation," dated April, 1998, with all explanatory matter thereon is declared to be a part of this Bylaw.

Section 3.04 - Changes to Map

Any change in the location of boundaries of a Zoning District hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such map and the map, thus altered, is declared to be a part of the Bylaw thus amended.

4.2.1 Interpretation of District Boundaries

Section 3.05 -- Boundaries of Districts --

The location of ~~district boundaries shown on the boundary lines of districts shown upon~~ the Zoning Map shall be determined as follows:

Aa. Where a boundary is indicated as a street, alley, railroad, ~~rapid~~ transit right-of-way, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.

Bb. Where a boundary is indicated as following approximately or parallel to a street, railroad, ~~rapid~~-transit right-of-way, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined ~~using by the use of~~ the scale shown on the Zoning Map.

Ce. Where a dimensioned boundary or the actual property boundary coincides within ~~10 ten (10)~~ feet or less with a lot line, the boundary shall be construed to be the lot line.

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

Ee. The abbreviation "PL" means property line as shown on the Town Assessor's Map as in effect at the effective date of this Bylaw. The abbreviation "PL," when used in conjunction with a subsequent amendment to this Bylaw, shall mean a property line as shown on the Town Assessor's Map as in effect at the effective date of such amendment.

Ff. The abbreviation "CL" means "Centerline" and "CI" means "Center of Intersection."

Gg. Whenever any uncertainty exists as to the exact location of a boundary line, the ~~interpretation made location of such line shall be determined~~ by the Inspector of Buildings shall control pending appeal, provided, however, that any person aggrieved by his decision may appeal to the ZBA.

Section 5. District Regulations

Section 5. District Regulations
~~ARTICLE 5 USE REGULATION~~

5.1 General Provisions

~~Section 5.01 - Applicability of Use Regulations~~

~~No building or structure shall be erected and no building or structure, or land or water area shall be used for any purpose or in any manner except in accordance with this Bylaw.~~

~~Except as provided in this Bylaw, no building, structure, or land shall be used except for the purposes permitted in the district as described in this article. Any use not listed shall be construed to be prohibited.~~

5.2 Use Regulations Applicable in All Districts
Section 5.02 – Permitted Uses

5.2.1. Permitted in All Districts

~~In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the word "yes," except that any use listed in the following Table of Use Regulations as a permitted use, the proposed location of which does not abut on a street which is laid out and approved by the Board of Survey as a traveled way, or which has not been built to subgrade, so that such way or street is passable for fire apparatus and other traffic, or which abuts on a street or way in which there is no public sewer or in which there is no water available for connection with the building after completion, may be allowed only by special permit. Those uses that may be permitted by special permit in the district, in accordance with Articles 10 and 11, shall be designated by the letters "SP." Uses designated with a blank shall not be permitted in the district.~~

The following uses are permitted in all districts:

~~A lot or structure located in the R6, R7, B1, B2, B2A, B3, B4, B5, PUD, I, MU, and T districts may contain more than one principal use as listed in Section 5.04 "Table of Use Regulation." For the purposes of interpretation of this Bylaw, the use containing the largest floor area shall be deemed the principal use and all other uses shall be classified as accessory uses. In the case of existing commercial uses, the addition or expansion of residential use within the existing building footprint shall not require adherence to setback regulations for residential uses even if the residential use becomes the principal use of the property.~~

A. Federal government use.

~~Section 5.03 – Uses Subject to Other Regulations~~

B. Property of the Commonwealth to the extent exempt from local zoning under state law.

~~Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this Bylaw.~~

C. Uses to the extent protected or exempt pursuant to G.L. c. 40A, § 3 or other state law.

~~Section 5.04 – Table of Use Regulations~~

~~See table on accompanying pages which is declared to be a part of this Bylaw.~~

5.2.2. Prohibited Uses

Section 11.02 – Environmental Performance

A. Any use not listed in the Tables of Uses for various districts in Section 6 or otherwise allowable under the provisions of this Bylaw is prohibited.

~~No new building or part thereof shall be constructed or used, and no premises shall be used, and no building or part thereof shall be altered, enlarged, reconstructed or used as follows:~~

B. All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare, are expressly prohibited in all districts.

~~a. For any purpose which by the emission or discharge of fumes, vapor, gas, dust, offensive odors, chemicals, poisonous fluids, or substances, refuse, organic matter or excrement, the causing of noise or vibrations, or by unduly increasing the risk from fire or explosion, or otherwise, would be dangerous or injurious to the public health or safety.~~

~~b. For any purpose which would be for any reason injurious to the health, safety, morals or welfare of the community or harmful to property therein.~~

5.2.3. Accessory Uses

An accessory use shall not alter the character of the premises on which it is located or have an adverse impact on the surrounding area.

~~Section 11.01 - General~~

~~In addition to the general conditions set forth in Section 10.11 of this Bylaw for all special permits, the following special conditions shall apply to the following uses in this article listed as special permits in various districts in the Table of Use Regulations:~~

5.3.1 ~~Section 6.09~~ - Lot Area Per Dwelling Unit

Minimum lot area per dwelling unit shall control the maximum number of dwelling units, of all types, that can be constructed on contiguous land under one ownership in one zoning district. In the business (B) districts, where a lot may contain both residential and nonresidential principal structures, the maximum number of dwelling units is computed by dividing the total land area by the minimum lot area per dwelling unit. Land in lower density districts used for buildings in higher density districts ~~(such as for parking under Uses 5.07 and 5.08)~~ shall not be included in the calculation of minimum lot area per dwelling unit for dwellings in the higher density district.

5.3.2. Section 6.01 - Reduction of Lot Areas and Separation of Lots

Aa. The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this Bylaw~~bylaw~~, nor may these areas include any property of which the ownership has been transferred after ~~subsequent to~~ the effective date of this Bylaw if the~~bylaw if such~~ property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

Bb. Lots ~~shall not be~~ separated or transferred in ownership must upon transfer either~~so as not to~~ comply with the provisions of this Bylaw or be deemed noncompliant. ~~bylaw.~~

5.3.3. Spacing of Residential and Other Buildings on One Lot

~~Section 6.03 - Spacing of a Residential Building on the same Lot with Another Principal Building~~

~~Aa.~~ Where two or more main buildings to be used as dwellings are proposed for construction on to be built upon property in one ownership or where one or more of the such buildings are proposed on land upon property where there are one or more existing residential buildings, the required front, side, and rear yards shall be provided between each building and assumed lot lines shown upon the building permit application. However, the Board of Appeals or, for projects requiring Environmental Design Review The ZBA, or in cases subject to Section 11.06, the Arlington Redevelopment Board ARB, however, may grant a special permit to by special permit, modify the yard dimensions between such buildings designed and intended to remain under common the same ownership and management where it is demonstrated that there will result light and air, air, sunlight, and amenity of a standard no lower than would result from compliance with either Board's minimums such requirements.

~~Bb.~~ When a permitted main building to be used as a dwelling is to be located on the same lot with and to the rear of a permitted nonresidential building (including a mixed-use building with commercial uses on the ground floor and residential uses above), each such building shall be independently provided with all required front, side, and rear yards, and required lot area; and the distance between such buildings shall not be less than twice the required rear yard depth.

~~c.~~ When a permitted main building to be used as a dwelling is to be located on the same lot with and beside a permitted nonresidential building, required front, side and rear yards shall be provided between each building and assumed lot lines shown upon the building permit application.

5.3.4. Section 6.04 - Spacing of Nonresidential Buildings on the Same Lot

A. Where two or more main buildings for nonresidential other than residential uses are proposed for construction on to be built upon property in one ownership, the minimum required front, side, and rear yards shall be met are required only at lot lines abutting other property.

B. For buildings in educational or religious use, the maximum floor area ratio requirements shall be less restrictive than as specified for the district in the following respects:
Section 6.05 - Exceptions to Dimensional Requirements for Uses 2.05 and 2.07

(1) Where several lots in one ownership and in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all lots may be aggregated in calculating floor area ratio.

a. The floor area ratio requirements as applied to Uses 2.05 and 2.07 listed in Section 5.04 shall be less restrictive than as specified in Section 6.00 in the following respects:

(2) The maximum floor area ratio shall be increased by one percent for each 2,000 square feet of lot area exceeding the lot size minimum for the district under consideration, up to 50%.

1. Where several lots in the same ownership and also in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all such lots may be aggregated in calculating floor area ratio.

2. The floor area ratio shall be increased by one percent for each 2,000 square feet of lot area exceeding the lot size minimum for the district under consideration, up to 50 percent.

The Board of Appeals or Arlington Redevelopment Board, as applicable, may approve. Under a special permit, the ZBA, or in cases subject to Section 11.06, the ARB may permit further modifications in the district's dimensional requirements dimensional requirements specified in Article 6 as applied to Uses 2.05 and 2.07 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

5.3.5 ~~Section 6.11~~ - Land Area Included in Calculation of Floor Area Ratio

Land area to be included in ~~calculating the calculation of~~ the maximum floor area shall include all contiguous lots under one ownership ~~located and~~ in zoning districts with the same or greater maximum floor area ratio ~~as specified in Section 6.00~~. Lots in a district with a lower maximum floor area ratio than an abutting district shall not be included in the calculation of a maximum floor area for any lot in the district with the higher maximum floor area ratio.

5.3.6 ~~Section 6.12~~ - Exceptions to Maximum Floor Area Ratio Regulations (Bonus Provisions)

Aa. The ~~Board of Appeals ZBA~~ or the ~~Arlington Redevelopment Board, as applicable, ARB~~ may grant ~~by~~ special permit subject to the standards ~~in Section 3.3 or 3.4 of Section 10.11 and/or Section 11.06~~, as appropriate, ~~to allow~~ a maximum gross floor area higher than is permitted in ~~the district Section 6.00~~, subject to the procedures, limitations, and conditions specified ~~below in this section~~, for a lot (or part of a lot) which meets the following basic requirements:

~~(1)~~ 1. The lot (or part of a lot) is ~~located~~ in a district with a floor area ratio of 1.2 or greater.

~~(2)~~ 2. The lot (or part of a lot) is not less than 20,000 square feet when the principal use is residential. When the principal use is non-residential, no minimum lot size is required provided all other provisions of ~~this Section 5.3.6 Section 6.12~~ are satisfied.

~~(3)~~ 3. Nonresidential properties listed as ~~contributing structures Contributing Structures~~ in National Register Historic Districts shall be allowed an increase in ~~floor area ratio Floor Area Ratio~~ up to a maximum of 2.6 by ~~special permit Special Permit heard by the ZBA or ARB as appropriate~~.

Bb. To aid the ~~Special Permit Granting Authority in making the required findings ZBA in making the findings required in Section 10.11 and the ARB in preparing the advisory report provided for in Section 11.06~~, the applicant shall submit the materials required by ~~3.4 Section 11.06~~ in addition to the usual drawings at the time of application.

Ce. The additional gross floor area ~~approved granted~~ in accordance with this Section ~~5.3.6 6.12~~ shall not exceed the following percentages of the gross floor area permitted in ~~the applicable district Section 6.00~~ except for buildings in ~~Subsection A(3) above. Residential uses in the B5 district shall not exceed a floor area ratio of 1.5a-3 above.~~

R7, B5 Districts R6, B2A, B4 Districts

~~Maximum Allowable: 33%~~ 25%

~~1. Maximum allowable 33%~~ 25%

Each Condition:

~~2. Each condition~~

~~-Large lot 25%~~ 20%

~~-Low or moderate income 25%~~ 20%

~~-Extra open space on lot 15%~~ 10%

~~-Public access 15%~~ 10%

~~-Preservation of landmarks Landmarks 15%~~ 10%

~~-Large dwelling units 10%~~ 5%

Dd. The ~~Special Permit Granting Authority may approve ZBA, or in cases subject to Section 11.06, the ARB may grant~~ additional gross floor area where any of the following conditions ~~apply pertain~~, subject to the limitations in ~~Subsection C paragraph e.~~ and in accordance with the

goals of the Arlington Master Plan or other development plans and policies of the Town of Arlington. The additional gross floor area shall be calculated separately for each condition based upon the gross floor area permitted in the applicable district~~Section 6.00~~.

~~(1)1-~~ For a lot that exceeds 20,000 square feet in area, additional gross floor area may be allowed calculated by increasing the floor area ratio for the district by specified in Section 6.00 at the rate of one percent for each 1,500 square feet of lot area in excess of 20,000 square feet.

~~(2)2-~~ Where dwelling units are age-restricted or affordable units, the subject to control of age of occupants or maximum rents in order to comply with the conditions of Federal or state legislation or regulations thereunder relating to subsidy for low or moderate income housing, such gross floor area for each affordable unit attributable to such controlled dwelling units may be allowed in excess of the gross floor area for the district as calculated by the ordinary application of the requirements of Section 6.00.

~~(3)3-~~ Where landscaped open space or usable open space is provided in excess of the minimum required in the districts specified in Section 6.00, additional gross floor area may be allowed at the rate of two ~~(2)~~ square feet of gross floor area for each one ~~(1)~~ square foot of either kind of open space in excess of the minimum requirements. The; said minimum requirements shall have been calculated based upon the aggregate of gross floor area allowable as a result of calculations from all applicable subparagraphs.

~~(4)4-~~ For a dwelling with an average gross floor area per dwelling unit more than in excess of 1,100 square feet, ~~such~~ excess gross floor area may be allowed above the maximum for the district. Any in excess of the gross floor area to be used for offices or other nonresidential principal use or for accessory retail, office, or consumer service use in an apartment building over 20,000 square feet (as described under Accessory Uses in Use Tables 5.4.3, 5.5.3, and 5.6.3) as calculated by the ordinary application of the requirements of Section 6.00. Any gross floor area to be used for offices, for any other nonresidential principal use, or for Use 8.09 shall not be included in calculating the average gross floor area per dwelling unit.

~~(5)5-~~ When usable land is deeded or an easement granted for public access and use, additional gross floor area may be allowed at the ratio of ~~10~~~~ten~~ ~~(10)~~ square feet of gross floor area to one ~~(1)~~ square foot of such land. Land so deeded or controlled by easement shall not be counted~~be counted~~ toward minimum lot size, lot area per dwelling unit, or open space requirements, nor shall it be included with land in calculating total permissible gross floor area from the resulting floor area ratio.

~~(6)6-~~ When architecturally or historically significant buildings, as listed in the "Inventory of Historically or Architecturally Significant Properties in the Town of Arlington" ~~documented by the Arlington Historical Commission~~, are preserved, additional gross floor area may be allowed at the rate ratio of eight ~~(8)~~ square feet of gross floor area to each one square foot of gross floor area of the preserved building. As applied in this section, preservation shall mean restoration of the building and maintaining it on the site, or relocation to an available site.

~~5.3.7. Section 6.16--~~ Screening and ~~Buffers:Space Buffers--~~ Industrial and Business Districts and Parking Lots

~~Aa.~~ Screening and space buffers shall be required in any ~~Industrial~~~~industrial~~ (I) or ~~Business~~~~business~~ (B) district ~~that~~~~which~~ abuts certain buildable residential lots. The minimum width of ~~the buffer~~~~this strip~~ shall be as follows:

I or B District	Abutting R District	Minimum Buffer
Industrial or Business Districts	Residential Districts	Minimum Width
I, B5	R0 through thru R5	25 ft
B3, B2A B2a , B4	R0 through thru R5	15 ft
I	R6 through and R7	10 ft
B1, B2	R0 through thru R5	10 ft

The strip shall contain a screen of plantings ~~of vertical habit~~ not less than three ~~feet wide (3) feet in width~~ and six ~~feet high (6) feet in height~~ at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than ~~20~~~~twenty (20)~~ feet on center; and shall ~~thereafter~~ be maintained by the owner or occupants so as to maintain a dense screen year-round. At least ~~50~~~~fifty (50)~~ percent of the plantings shall consist of evergreens and they shall be evenly spaced. A solid wall or solid wooden fence, five ~~(5)~~ to six ~~feet high (6) feet in height~~, complemented by suitable plantings, may be substituted for one-half the required width of such landscaped buffer ~~strip; strip~~; however, provisions of this section shall not supersede the minimum setbacks for parking lots per Section ~~6.18.12~~ nor the minimum yard requirements of ~~the district. Section 6.00~~. No screen shall be closer than ~~10~~~~ten (10)~~ feet to a public or private way. Where deemed appropriate by the property owner and immediate abutters, and as approved by the ~~Building Inspector~~~~building inspector~~, another wall or fence height or fence type, including but not limited to coated chain link or “wrought iron” types may be substituted for the required wall or fence.

~~Bb.~~ For any area used for the parking of more than five vehicles, ~~the~~ screening provisions of Section ~~6.1, Off-Street Parking and Loading, 8.12~~ shall apply.

~~C.~~ Screening and space buffers shall not be required where abutting railroad track or railroad right-of-way if railroad is to be utilized for loading or unloading.

5.3.8.~~Section 6.17~~- Corner Lots and Through Lots

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

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

-

5.3.9 ~~Section 6.19~~ - Projections into Minimum Yards

A. Projecting eaves, chimneys, bay windows, balconies, open fire escapes, and enclosed entrances not more than 25 square feet in floor area or more than one story high which do not project more than three and one-half ~~half~~ (3-1/2) feet beyond the line of the foundation wall may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built. Enclosed entrances larger than that allowed above may extend into the minimum yard regulations otherwise provided for the district by special permit.

B. Unenclosed steps, ~~decks, unroofed porches~~ and the like, which do not project more than ~~10ten~~ (10) feet in the front yard, or more than five (5) feet in the side yard beyond the line of the foundation wall may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built. Unenclosed steps, ~~decks, unroofed porches~~ and the like which do not project more than ~~10ten~~ (10) feet into the required rear yard and are not closer to the lot line than half the size of the required yard, may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built

C. Second story additions within the required front yard setback may extend no more than one foot beyond the existing building wall.

-

5.3.10. Average Setback Section 6.20--Exception to Minimum Front Yard; All R Districts--
Average Setback

Where the required lot frontage of developed residential lots along a block amounts to more than 50%~~fifty (50) percent~~ of the block frontage, and where said development has an average setback less than that required by this bylaw, then any vacant lot setback for a residential use may be reduced to said average of the existing development.

5.3.11 ~~Section 6.21~~ - Dimensional Requirements for Courts

~~a~~ Inner courts shall be permitted in any building. Where an outer court is enclosed by apartment wings, a distance equal to twice the required side yard ~~in the districts specified in Section 6.00~~ shall be provided between the wings, but not less than ~~25~~ twenty-five (25) feet.

5.3.12. Section 6.22 -- Traffic Visibility ~~Across Corners~~

A. Across Street Corners. Between the property lines of intersecting streets and a line joining points on ~~the property lines 20 such lines twenty~~ (20) feet distant from their point of intersection or in the case of a rounded corner, the point of intersection of their tangents, no building or structure in any Rresidence district may be erected and no vegetation other than shade trees may be maintained between a height of three ~~(3)~~ feet and seven ~~(7)~~ feet above the plane through their curb grades.

Section 6.23 -- Traffic Visibility for Driveways

B. Visibility for Driveways. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over two and one-half ~~(2-1/2)~~ feet in height above the adjacent ground within five ~~(5)~~ feet of the front lot line unless it can be shown that ~~thesueh~~ vegetation or structure will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.

5.3.13. Accessory Buildings and Other~~Section 6.24 - Accessory Underground~~ Structures

A. Any accessory structure or any part of a main structure or building which is located entirely beneath the surface of the ground at the natural grade level may extend into a required front, side, or rear yard except that in any situation where ~~landscaped open space~~~~Landscaped Open Space~~ is required, no underground structure or building shall be located beneath more than ~~50%~~~~fifty (50) percent~~ of the required ~~landscaped open space~~~~Landscaped Open Space~~, nor nearer to any lot line for more than ~~75%~~~~seventy-five (75) percent~~ of the length of ~~the~~~~that~~ lot line.

B. An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building per Section 5.4.2.

Section 6.18 - Setback of Accessory Buildings and Other Structures

(1) In Residence districts, a minor accessory building shall be exempt from front, side, and rear yard requirements if said building dimensions result in a gross floor area of not more than 80 square feet and a building height of not more than 7 feet.

~~An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building. In "R" districts, an accessory building, such as a doghouse, or toolshed, shall be exempt from the preceding dimensional regulations if said building dimensions result in a floor area not more than eighty (80) square feet and a building height of not more than seven (7) feet.~~

~~Accessory buildings in the "B", "MU" and "I" districts shall be located on the lot so as not to violate the minimum yard, height, and open space requirements set forth in the Table of Dimensional and Density Regulations. An accessory private swimming pool shall be completely enclosed by a fence the top of which shall be at least (5) feet in height above the pool, having a self-closing gate with a latch. Above-ground pools less than 24 inches in depth, or with walls four feet or greater in height and a removable may be unfenced at the decision of the Building Inspector. The above table when applied to accessory private pools only shall consider the unnumbered side of a corner lot as a side yard for the purposes of establishing minimum setback requirements. Other accessory structures except fences shall be governed by the regulations for accessory buildings unless specifically exempt by the ZBA as a special permit.~~

(2) In Business, Multi-Use, and Industrial districts, accessory buildings shall be located on the lot so as not to violate the minimum yard, height, and open space requirements in the district.

~~Accessory buildings in the OS district shall be located on the property so as to maintain the harmonious relationship to the neighborhood, and so as not to detract from the primary goal of the open space use.~~

(3) In the Open Space district, accessory buildings shall be located on the property so as to maintain the harmonious relationship to the neighborhood, and not detract from the primary goal of the open space use.

(4) An accessory private swimming pool shall be completely enclosed by a fence the top of which shall be at least 5 feet in height above the pool, having a self-closing gate with a latch. Above-ground pools may be unfenced if they are less than 24 inches in depth or with walls 4 feet

or greater in height and removable. The unnumbered side of a corner lot shall be considered as a side yard for the purposes of establishing minimum setback requirements for accessory private swimming pools in all Residence districts. See Section 5.4.2.(A) District Yard and Open Space Requirements.

5.3.14. Townhouse Structures

~~Table of Dimensional and Density Requirements, Footnote D.~~

A. ~~A townhouse town house~~ structure shall not exceed 150 feet or 6 ~~townhouses town houses~~ in length for a single-story structure nor 120 feet for that part of the structure more than one-story in height. ~~See also Section 6.25 for end yards for town house structures and Section 6.21 for minimum court dimensions.~~

B. ~~One townhouse Section 6.25 -- End Yards for Town House Structures. One town house~~ structure shall be separated from the end of another ~~townhouse town house~~ structure by a distance not less than two times the minimum side yard ~~of specified in Section 6.00~~ for the district in which the site is located.

~~CSection 6.21 -- Dimensional Requirements for Courts, b.~~ When two townhouse structures are placed face to face or back to back and are parallel or within 45 degrees of parallel, they shall be separated by a distance not less than the sum of the minimum front and rear yards specified for the district in which they are located.

~~5.3.15, Section 6.26~~ - Buildings of Uneven Height or Alignment

Aa. Where a building is not of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, but where it is in one alignment along said length, required yards and setbacks shall be either $(H1 + L1)/6$ or $(H2 + L2)/6$ whichever is greater, where:

H1 = the height of the taller portion of the building;

H2 = the height of the lower portion of the building;

L1 = the length of the taller portion of the building; and

L2 = the entire length of the building.

Where the formula $10 + L/10$ applies, L shall be defined as L2 above.

Bb. Where a building is of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, but where it is not in one alignment along said length, required yards and setbacks shall be $(H + L1)/6$ for the portion of the building nearer the lot line; and $(H + L2)/6$ for the portion of the building further from the lot line, where:

H = the height of the building;

L1 = the length of the portion of the building nearer the lot line; and

L2 = the entire length of the building.

Where the formula $10 + (L/10)$ applies, the required yards and setbacks shall be $10 + (L1-/10)$ for the portion of the building nearer the lot line; and $10 + (L2-/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

Ce. Where a building is not of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, and where it is not in one alignment along said length, required yards and setbacks shall be calculated as follows:

~~(1)1~~. Where the taller part of the building is nearer to the lot line required yards and setbacks shall be $(H1 + L1)/6$ for the portion of the building nearer to the lot line; and $(H2 + L2)/6$ for the portion of the building further from the lot line, where:

H1 = the height of the taller part of the building;

H2 = the height of the lower part of the building;

L1 = the length of the taller part of the building; and

L2 = the entire length of the building.

~~(2)2~~. Where the formula $10 + (L/10)$ applies, required yards and setbacks shall be $10 + (L1-/10)$ for the portion of the building nearer the lot line; and $10 + (L2-/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

~~(3)3~~. Where the taller part of the building is further from the lot line, required yards and setbacks shall be $(H1 + L2)/6$ for the portion of the building further from the lot line; and $(H2 + L1)/6$ for the portion of the building nearer the lot line, where:

H1 = the height of the taller part of the building;

H2 = the height the lower part of the building;

L1 = the length of the lower part of the building; and

L2 = the length of the entire building.

Where the formula $10 + (L/10)$ applies, the required yards and setbacks shall be $10 + (L1-/10)$ for

the portion of the building nearer the lot line; and $10 + (L2/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

5.3.16 ~~Section 6.27~~ - Yards or Setbacks for Lots Adjoining a Street or Public Open Space

In cases subject to Section ~~3.4.11.06~~ Environmental Design Review, the Arlington Redevelopment Board in evaluating the proposal may grant a special permit to ~~Special Permit~~ adjust the required setbacks set forth elsewhere in this Bylaw to account for specific conditions unique to the proposal.

5.3.17. Upper-Section 6.285 — Upper Story Building Step Backs

For buildings ~~more than three in excess of three (3)~~ stories in height, an additional ~~7.5-foot step-seven and one half (7.5) foot step~~ back (upper story building setback) shall be provided beginning at the third ~~(3rd)~~ story level or ~~30thirty (30)~~ feet above grade, whichever is less. The upper story ~~step-backstepback~~ shall be provided along all building elevations with street frontage, excluding alleys.

5.3.18, Section 6.29 - Balconies and Roof as Portion of Usable Open Space

The Board of Appeals or Arlington Redevelopment Board, as applicable, may grant a ZBA, or in cases subject to Section 11.06, the ARB may authorize by special permit that private balconies with a least dimension of six ~~(6)~~ feet and open space on a roof not more than ~~10~~~~ten~~~~(10)~~ feet above the level of the lowest story used for dwelling purposes may be counted up to ~~50%~~~~percent~~ of the usable open space requirement. The proponent's application shall include drawings which depict surface materials, planting areas, fences, railings, benches, access, and other similar items.

5.3.19. Section 6.13 -- Reduced Height Buffer Area Limits in Height Buffer Areas

A. When two different maximum height limits are specified for the same zoning district in any Table of Dimensional and Density Regulations in this Section 5Section 6.00, the lower limit shall apply to any lot or part of a lot located in a height buffer area unless it is determined as a specific finding of a special permit that the properties in the adjacent R0, R1, R2, or OS district would not be adversely affected due to existing use or topographic condition. A height buffer area is defined as a lot or part of a lot which is located at a lesser distance from any land, not within a public way, in an R0, R1, R2 or OS district than the following:

<u>Land in R0, R1, R2, OS is located</u>	<u>Lower height shall apply</u>
<u>Between northwest and northeast</u>	<u>Within 200 feet</u>
<u>Easterly, between northeast and southeast, or westerly between northwest and southwest</u>	<u>Within 150 feet</u>
<u>Southerly, between southeast and southwest</u>	<u>Within 100 feet</u>

- ~~a. Two hundred (200) feet if the direction of land in the R0, R1, R2 or OS district is northerly, between northwest and northeast.~~
- ~~b. One hundred and fifty (150) feet if such direction is easterly, between northeast and southeast, or westerly between northwest and southwest.~~
- ~~c. One hundred (100) feet if such direction is southerly, between southeast and southwest.~~

5.3.20. Section 6.14 - Exceptions to Maximum Height Exceptions Regulations

In any district, the maximum height limitations shall not apply to the following:

A. Chimneys, ventilators, skylights, water tanks, bulkheads, penthouses, and other accessory additions that are required or are customarily carried above the roofs of buildings;

B. Non-habitable towers, spires, domes, cupolas, and similar additions provided they do not occupy more than twenty (20) percent of the ground floor of the building;

~~The height limitations as set forth in Section 6.00 shall not apply to chimneys, ventilators, skylights, water tanks, bulkheads, penthouses and other accessory additions which are required or are customarily carried above the roofs of buildings, nor to towers, spires, domes, cupolas, and similar additions to buildings if such additions are not used for living purposes, and if such structures occupy not more than twenty (20) percent of the ground floor of the building. Height limitations of Sections 6.00 and 6.15 shall not apply to a Cable Television head end receiving antenna. Such an antenna may be up to twenty-five (25) feet higher than the uppermost point on an existing structure within one hundred and fifty (150) feet; otherwise the height limit shall be established in accordance with a special permit.~~

5.3.21. Supplemental Requirements in the Business and Industrial Districts; A. Screening and Buffers:~~Section 6.16 - Screening and Space Buffers -~~ Industrial and Business Districts and Parking Lots

~~(1)a.~~ Screening and space buffers shall be required in any ~~Industrial~~~~business~~ (I) or ~~Business~~ (B) district ~~that~~~~which~~ abuts certain buildable residential lots. The minimum width of ~~the buffer~~~~this strip~~ shall be as follows:

I or B District	Abutting R District	Minimum Buffer
Industrial or Business Districts	Abutting Residential Districts	Minimum Width
I, B5	R0 through R5	R0 thru R5 25 ft
B3, B2A B2a , B4	R0 through R5	R0 thru R5 15 ft
I	R6 through R7	R6 and R7 10 ft
B1, B2	R0 through R5	R0 thru R5 10 ft

The strip shall contain a screen of plantings of vertical habit not less than three ~~(3)~~ feet in width and six ~~(6)~~ feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than ~~20~~~~twenty~~ ~~(20)~~ feet on center, and shall thereafter be maintained by the owner or occupants ~~so as~~ to maintain a dense screen year-round. At least ~~50%~~ ~~fifty~~ ~~(50)~~ percent of the plantings shall consist of evergreens and they shall be evenly spaced. A solid wall or solid wooden fence, five ~~(5)~~ to six ~~(6)~~ feet in height, complemented by suitable plantings, may be substituted for one-half the required width of such landscaped buffer strip; however, provisions of this section shall not supersede the minimum setbacks for parking lots per Section ~~6.18-12~~ nor the minimum yard requirements of ~~Sections 5.5 and 5.6.~~ ~~Section 6.00.~~ No screen shall be closer than ~~10~~~~ten~~ ~~(10)~~ feet to a public or private way. Where deemed appropriate by the property owner and immediate abutters, and as approved by the building inspector, another wall or fence height or fence type, including but not limited to coated chain link or “wrought iron” types may be substituted for the required wall or fence. See Section 5.3.7 for screening and buffer requirements for Business districts, Industrial districts, and parking lots.

~~(2)b.~~ For any area used for the parking of more than five vehicles, ~~the~~ screening provisions of Section ~~6.1, Off-Street Parking,~~~~8-12~~ shall apply.

B. Accessory Structures. Accessory structures must comply with the minimum yard, maximum height, and minimum open space requirements of the district in which they are located.

C. Upper-Story Setbacks. In any district where the maximum building height exceeds three stories, upper-story building setbacks shall be required.

Section 5.3.21

Table of Dimensional and Density Requirements, Footnote H

D. For mixed uses and any permitted residential use not specifically identified in the tables in Section 5.5.2, the minimum open space requirements ~~Open space requirements for residential uses~~ (computed from the residential ~~their~~ floor area only) shall be 10% ~~percent~~ landscaped and 20% ~~percent~~ usable in the B1, B2, B2A, B3, and B4 districts, and 15 percent usable in the B5 district. _____

5.3.22, Section 2 Definitions; Gross Floor Area

A. For the purposes of this bylaw, the following areas of buildings are to be included in the calculation of Gross Floor Area:

~~The sum of the gross horizontal areas of all the floors of a principal building and its accessory building or buildings on the same lot, including basements, as measured from the exterior faces of the exterior walls, or centerlines of walls separating two (2) buildings, including:~~

- ~~(1) Elevator~~ a. elevator shafts and stairwells on each floor;
- ~~(2) Attic areas b. that part of attic space~~ with headroom, measured from subfloor to the bottom of the roof structure joists, of seven feet three inches or more, except as excluded in (4); below;
- ~~(3) Interior mezzanines;~~
e. interior mezzanines, and penthouses;
- ~~(4) Penthouses;~~
- ~~(5) Basement areas except as excluded in (2) below;~~
- ~~(6) Cellars d. basements except as excluded in (2), below; and cellars~~ in residential uses;
- ~~(7) All-e. all~~ weather habitable porches and balconies; and
- ~~(8) Parking f. parking~~ garages except as excluded in (1) below; below;

B. For the purposes of this bylaw, the follow areas of buildings are to be excluded from the calculation of Gross Floor Area:

but excluding:

- ~~(1) Areas 1. areas~~ used for accessory parking ~~garages~~, or off-street loading purposes;
- ~~(2) Basement areas 2. that part of basements~~ devoted exclusively to mechanical uses accessory to the operation of the building;
- ~~(3) Open 3. open~~ or lattice enclosed exterior fire escapes;
- ~~(4) Attic 4. attic space~~ and other areas used for elevator machinery or mechanical equipment accessory to the operation of the building; and
- ~~(5) Unenclosed porches, balconies, and decks.~~
~~5. porches and balconies.~~

5.4.1. Districts and Purposes

The Town of Arlington has established eight residential districts to accommodate a variety of single-family, two-family, duplex, three-family, and multi-family apartment dwellings, as well as offices in some cases, in locations that are appropriate for the permitted uses and density of development. The boundaries of the districts are as shown on the Zoning Map.

A. R0, R1, and R2. The R0, R1, and R2 districts are traditional residential districts. Together, these districts comprise a substantial majority of the residentially zoned land in Arlington.

Section ~~5.4.1(A)3.02~~ -- Description of Zoning Districts

~~(1) R0: R0~~--Large Lot Single-Family District. The Large Lot Single-Family District ~~is composed of all those areas so designated on the official zoning map.~~ It has the lowest residential density of all districts and is generally served by local streets only. ~~The Town discourages intensive Intensive~~ land uses, uses ~~thatwhich~~ would detract from the ~~single-familydesired~~ residential character ~~of these neighborhoods~~, and uses ~~thatwhich~~ would otherwise interfere with the intent of this ~~Bylaw~~~~bylaw are discouraged.~~

~~(2) R1: R1~~--Single-Family District. The ~~predominant uses in R1 are Single-Family District is composed of all those areas so designated on the official zoning map.~~ The predominant use is single-family dwellings and public land and buildings. ~~The Town discourages intensive Intensive~~ land uses, uses ~~thatwhich~~ would detract from the ~~single-familydesired~~ residential character ~~of these neighborhoods~~, and uses ~~thatwhich~~ would otherwise interfere with the intent of this ~~Bylaw~~~~bylaw are discouraged.~~

~~(3) R2: R2~~--Two-Family District. The ~~Two-Family District is composed of all those areas so designated on the official zoning map.~~ The predominant use ~~in R2~~ is a two-family dwelling ~~or duplex. This and the~~ district is generally served by local streets only ~~and its neighborhoods are largely walkable and well established. It includes areas that are.~~ This district is generally within walking distance of the stores and transportation facilities along Massachusetts Avenue and Broadway. ~~The Town discourages uses that consume large amounts of land, uses that Uses which~~ would detract from the ~~single-family and two-family or duplex residential character of these neighborhoods, and uses that would desired residential character, consume large amounts of land, or~~ otherwise interfere with the intent of this ~~Bylaw~~~~bylaw, are discouraged.~~

5.4.1(B). R3 and R4. The R3 and R4 districts are established residential areas in or adjacent to the commercial centers along Broadway and Massachusetts Avenue.

5.4.1.(B)
3.02

(1) ~~R3: R3--Three-Family District. The predominant use in the R3 district Three-Family District is composed of all those areas so designated on the official zoning map. The predominant use is a three-family dwelling with locations along Massachusetts Avenue and Broadway. It is the Town's intent that no businesses will be located in the R3 district. The Town discourages uses that Uses which~~ would detract from the small-scale multifamily residential character of these neighborhoodsdesired residential character, consume large amounts of land, or otherwise interfere with the intent of this Bylawbylaw, ~~are discouraged.~~

(2) ~~R4: Townhouse Districts. The predominant uses R4--Town House Districts. The Town House District is composed of all those areas so designated on the official zoning map. It is located along arterials or in the R4 district Center area. The predominant uses are one- and two-family dwellings in large, older houses. Conversions of these old homes to apartments or offices areis~~ allowed to encourage their preservation. TownhouseTown house construction is permitted at the same density as the apartment conversions, and at a scale in keeping with the older houses. Uses which would detract from the desired residential character, or otherwise interfere with the intent of this bylaw, are discouraged.

5.4.1(C). R5, R6, and R7. The R5, R6, and R7 districts are apartment districts in which a variety of uses and different densities of development are allowed. For medium-density (R6) and high-density (R7) residential development. Most of these districts are along Massachusetts Avenue and Pleasant Street, primarily within or adjacent to Arlington Center.

5.4.1(C)
3.02

~~(1) R5: Apartment District/R5--Apartment District--Low Density. The The Low-Density Apartment District is composed of all those areas so designated on the official zoning map. The predominant use is two- to three-story garden apartments located along or near principal arteries. The Town allows smallSmall-scale offices would be allowed on principal arteries only. The Town discourages uses Uses which would detract from the desired residential character, consume large amounts of land, or otherwise interfere with the intent of this Bylawbylaw, are discouraged.~~

~~(2) R6: Apartment District/R6--Apartment District--Medium Density. The predominant land uses in the Medium-Density Apartment District consist of a mix of Medium-Density Apartment District is composed of all those areas so designated on the official zoning map. The predominant use is apartments up to four stories high and offices with offices permitted at a smaller scale. The Town discourages uses Locations are principally Massachusetts Avenue and Pleasant Street. Uses which would detract from the desired residential and office character, or otherwise interfere with the intent of this Bylawbylaw, are discouraged.~~

~~(3) R7: Apartment District/R7--Apartment District--High Density. The High-Density Apartment District accommodates is composed of those areas so designated on the official zoning map. The predominant use is apartments up to five5 stories high and offices of a similar scale. The Town discourages uses that , although offices are also permitted at the same scale. Locations are principally within or adjacent to Arlington center. Uses which would detract from the desired character of these areas, such as large-scale retail uses, or otherwise interfere with the intent of this Bylawbylaw, are discouraged.~~

5.4.2. Dimensional and Density Requirements

The dimensional and density requirements in this Section apply to principal and accessory uses and structures in the Residential districts. Additional dimensional and density regulations affecting all districts can be found in Section 5.3.

Section 6.00- Table of Dimensional and Density Regulations

A. Tables of Dimensional and Density Regulations

R District Lot Regulations (see 5.4.2(B) for exceptions).

R District Yard and Open Space Requirements (see 5.4.2(B) for exceptions).

R District Open Space and Lot Coverage Regulations (see 5.4.2(B) for exceptions).

R District Building Height and Floor Area Ratio Regulations (see 5.4.2(B) for exceptions)

The regulations for each district pertaining to minimum lot size, minimum frontage, maximum floor area ratio, maximum lot coverage, minimum lot area per dwelling unit, minimum front yard depth, minimum side yard depth, minimum rear yard depth, minimum lot width, maximum height, minimum landscaped open space, and minimum usable open space shall be as specified in this section, "Table of Dimensional and Density Regulations," and subject to the further provisions of Article 6.

[NOTE: Tables of Dimensional and Density Regulations omitted from this redline. See original documents.]

Section 6.15 -Height of Accessory Building and Other Structures in Residential (R) Districts

Accessory buildings or structures used for accessory purposes in all residential (R) districts shall not exceed a height of twenty (20) feet.

5.4.2 B. Section 6.06--Exceptions to Minimum Lot Area, Minimum Front Yard Lot Width, Size, Frontage, Open Space, Side Yard, and Height and Side Yard Requirements in the R0, R1, and R2 Districts.

(1) The following applies to any lot shown on a subdivision plan approved by the Board of Survey or on a plan or deed recorded with the Registry of Deeds prior to May 15, 1924. If such lot did not contain a principal building or a building permit was not issued prior to August 28, 1975, the minimum lot size, frontage, open space, and side yard requirements for a residential use shall not apply, and the lot may be built upon with a single- or two-family residential use if permitted in the applicable district, provided that:

The lot contains at least 5,000 square feet of area and 50 feet of frontage, and

The lot was not held in common ownership with any adjoining land, and

The lot conformed to then-existing dimensional and density requirements at the time that it was shown on an approved plan or by recorded deed or plan, and

The minimum open space requirements of this section are satisfied.

a. The minimum lot size, frontage, open space and side yard requirements set forth in the Table of Dimensional and Density Regulations for residential uses in the R0, R1 and R2 Zoning districts may not apply to lots which prior to the passage of the zoning bylaw on May 15, 1924, were shown as separate parcels on subdivision plans approved by the Board of Survey or on plans or deeds duly recorded with the Registry of Deeds. Such lots which did not contain a principal building or for which a building permit was not issued prior to the first advertisement of this section in August, 1975, may be built upon with a single or two-family residential use as permitted in such zoning district provided (i) the lot contains not less than 5,000 square feet of area and 50 feet of frontage, (ii) was not held in common ownership with any adjoining land, (iii) conformed to then-existing dimensional and density requirements at the time that it was shown on an approved plan or by recorded deed or plan, and (iv) the open space requirements and the requirements of Section 9.03, are satisfied.

5.4.2 B

Section 6.06

(2) Exemption for particular streets. The following shall b. The minimum lot size, frontage, and side yard requirements set forth in Section 6.00 for residential uses in the R2 district may not apply to ~~certain~~ lots on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street ~~if which were~~ shown on separate subdivision plans ~~duly~~ recorded with the Registry of Deeds prior to August 28, 1975. The minimum lot size, minimum frontage, and minimum side yard requirements for residential uses in the R2 district shall not apply, and ~~Such lots containing~~ a single-family dwelling attached to one other single-family dwelling on an adjoining lot as of August 28, 1975, shall be considered a building lot~~building lots~~.

5.4.2 B

Footnotes to Table of Dimensional and Density Regulations

(3) RO District Minimum Lot Area Exception^Ø. Any ~~lot~~lots shown on the Zoning Map~~zoning map~~ as proposed by the zoning bylaw change first advertised on February 21, 1991, as being in the R0 district, and which ~~was~~were ~~duly~~ recorded with the Registry of Deeds on or before February 21, 1991, and which did not contain a principal building, or for which a building permit was not issued, may be built upon with a single family residential use provided that the lot contains not less than 6,000 square feet of area and 60 feet of frontage.

5.4.2 B

Section 6.20a - Minimum Lot Width in R0, R1 and R2 Districts

(4) Front Yard Minimum Lot Width Requirements and Exceptions. The minimum front yard lot width shall be 50 feet measured along lines parallel to the front lot line, except that such minimum front yard lot width shall not apply to (i) any lot excepted under Section 5.4.2(B)(1) or 5.4.2(B)(2) or (ii) restoration of any principal building that existed on a lot or for which a building permit was issued prior to February 1, 1988.

~~In R0, R1 and R2 districts, each lot shall have a width of not less than fifty feet at all points between the front lot line and the front line of the nearest building wall, except that such minimum lot width shall not apply (1) to any lot excepted under the provisions of Section 6.06, or (2) in connection with the restoration of any principal building on any lot on which either such building exists or for which a building permit has been issued prior to the date of the first advertisement of this section in February, 1988. Such width shall be measured along lines parallel to the front lot line.~~

5.4.2 B

Article 2 - Definitions

~~(5) Calculation of Building Height. On a lot with~~The vertical distance of the highest point of the roof above the average grade of the curb line abutting the property. In the R0, R1 and R2 zoning districts where the lot has a slope more than 5%, ~~building in excess of five (5) percent,~~ the height is the vertical distance of the highest point of the roof above the average finished grade of the ground using grade plane as defined in the State Building Code. ~~adjoining the building as computed before the building is actually erected. This definition excludes penthouses, bulkheads, and other allowable superstructures above the roof line.~~

5.4.2 B

~~Section 6.08 – Large Additions in Residential Districts~~

~~(6) Large Additions. No alteration or addition which increases the gross floor area of a building by 750 square feet or more, or by 50% or more of the building's gross floor area on the date of application for a permit or because of cumulative alterations or additions during the previous two years, shall be allowed unless:~~

~~The addition is constructed entirely within the existing foundation, or
The Board of Appeals, acting pursuant to Section 3.3, finds that the alteration or addition is in harmony with other structures and uses in the vicinity.~~

~~In making its determination, the Board of Appeals shall consider, among other relevant facts, the proposed alteration or addition's dimensions and setbacks in relation to abutting structures and uses and its conformity to the purposes of this Bylaw as set forth in Section 1.2.~~

~~No alteration or addition permitted as a right or by special permit in an R0, R1 or R2 District which increases the size of a building by 750 square feet or more of the gross floor area, or by 50% or more of the original building's gross floor area shall be allowed unless such addition is constructed entirely within the existing foundation, or there is a finding by the Special Permit Granting Authority, acting pursuant to Section 10.11, that the alteration or addition is in harmony with other structures and uses in the vicinity. In making its determination, the Special Permit Granting Authority shall assess, among other relevant facts, the dimensions and setbacks of the proposed alteration or addition in relation to abutting structures and uses and determine its conformity to the purposes set forth in Article 1, Section 1.03, of the Zoning Bylaw. Requests for building permits for additions or alterations which when combined with an alteration or addition constructed within the previous two years would require a special permit finding shall be deemed to require such a finding.~~

5.4.2. B

Section 6.18 - ~~Setback of Accessory Buildings and Other Structures~~

(7) Garages. Private detached garages need not conform to side yard and/or rear yard setbacks, but shall be governed by the following table:

~~In "R" districts, a detached accessory building or structure shall conform to the provisions set forth in the following schedule:~~

<u>Construction Type</u>	<u>Setback required from</u>		
	<u>Side Lot Line Garage located entirely within rear yard</u>	<u>Side Lot Line Garage located within side yard</u>	<u>Rear Lot Line</u>
<u>Type 1 and Type 2 with a Type 3B roof</u>	<u>0 ft.</u>	<u>10 ft.</u>	<u>None</u>
<u>Type 3</u>	<u>6 ft.</u>	<u>10 ft.</u>	<u>6 ft.</u>

	Setback required from		
Construction type	Side lot line. Garage located entirely within rear yard	Side lot line. Garage located within side yard	Rear lot line
Type 1 and Type 2 with a Type 3B roof	0 ft.	10 ft.	None
Type 3	6 ft.	10 ft.	6 ft.

Section 5.4.2

Footnotes to Table of Use Regulations (Section 5.0.4)

Cb. One exception is made for attached single-family dwellings on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street. Attached single-family dwellings existing in August, 1975, on these streets are permitted as a right.

De. In the R0, R1 and R2 districts no new licensed nursing home, rest home, convalescent home facilities ~~facilities under use 2.04~~ shall be constructed except at sites whereon these facilities existed as of August, 1975. These existing facilities may be reconstructed to meet code requirements in accordance with a special permit under 3.3 and 3.4 ~~Sections 10.11 and 11.0~~

5.5 BusinessSection 3.02 - Description of Zoning Districts

5.5.1. Districts and Purposes

The Town of Arlington has established six business districts to provide for goods and services and employment opportunities in a variety of settings. The boundaries of the districts are as shown on the Zoning Map.

5.5.1
3.02

A. B1: B1--Neighborhood Office District. ~~In the~~The Neighborhood Office District, ~~the predominant is composed of all those areas so designated on the official zoning map.~~ ~~Predominant~~ uses include one- and two-family ~~dwelling~~residences, houses with offices on the ground floor, or office structures which are in keeping with the scale of adjacent houses. ~~Primarily located~~ ~~With most locations~~ on or adjacent to Massachusetts Avenue, ~~this~~the district is intended to encourage preservation of small-scale structures to provide contrast and set off the higher-density, more active areas along the Avenue. ~~Mixed-use buildings without retail space are allowed in this district. The Town discourages uses that~~ ~~Uses which~~ would detract from the desired low level of activity, consume large amounts of land, or otherwise interfere with the intent of this ~~Bylaw~~ bylaw, ~~are discouraged. Mixed-use structures without retail space are allowed in this district.~~

B. B2: B2--Neighborhood Business District. -The Neighborhood Business District is ~~intended for composed of all those areas so designated on the official zoning map. Predominant uses include~~ small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic, ~~and mixed-use buildings.~~ -Locations are almost all along Massachusetts Avenue or Broadway. ~~The Town discourages uses that~~ ~~Uses which~~ would detract from ~~the district's~~ ~~this~~ small-scale business character; or otherwise interfere with the intent of this ~~Bylaw~~ bylaw ~~are discouraged. Mixed-use structures are allowed in this district.~~

C. B2A: B2A--Major Business District. ~~The B2A district is located~~ ~~The major Business District is composed of all those areas so designated on the official zoning map. Located~~ along Massachusetts Avenue, Mill Street, Summer Street, and Broadway. ~~These, these~~ areas generally contain ~~uses that are~~ retail and service ~~uses that to~~ serve the needs of a large neighborhood area. Customers generally arrive by car, ~~so the Town wants to ensure that~~ ~~so there is~~ ample parking ~~is available~~ to serve the retailer. ~~Mixed-use buildings are allowed in this district, as is medium-density housing. Housing is also permitted at a medium density due to the district's proximity proximity of the zone to residential uses. Specifically prohibited uses include (but are not limited to) automotive uses, Mixed-use structures are allowed in this district. Automotive uses; some office uses, and wholesale business and storage uses, are prohibited.~~

D. B3: B3--Village Business District. -The Village Business District's ~~predominant is composed of all those areas so designated on the official zoning map. Predominant~~ uses include retail, service and office establishments catering to both convenience and comparison-goods shoppers and oriented to pedestrian traffic. Mixed-use structures are allowed and encouraged in this district. The three locations include portions of the principal business areas of Arlington: Lake Street, Arlington Center, and Arlington Heights. - Businesses which consume large amounts of land and activities which interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.

E. B4: B4--Vehicular Oriented Business District. -The Vehicular Oriented Business District ~~provides for establishments that are is composed of all those areas so designated on the official zoning map. Uses include establishments~~ primarily oriented to automotive traffic, ~~which means~~

~~they which~~ require large amounts of land in proportion to building coverage. ~~This district also consists of~~; ~~or~~ establishments devoted to the sale or servicing of motor vehicles, the sale of vehicular parts and accessories, and service stations. -Arlington has an ~~abundance over abundance~~ of automotive and automotive accessory sales and service establishments. ~~As~~; ~~thus when one of~~ these businesses ~~gradually close~~ ~~loses~~, the ~~Town has encouraged~~ conversion of the property to other retail, service, office, or residential use ~~is encouraged~~, particularly as part of mixed-use development ~~which is allowed in this district~~.

~~F. B5: B5~~--Central Business District. -The Central Business District is ~~a small district composed of all those areas so designated on the official zoning map~~ in Arlington Center. It includes retail, service, and office uses, and ~~it~~ provides for large-scale development. The scale is intended to reinforce the Center's role as the focus of activity in Arlington. Mixed-use development is encouraged, such as the combining of residential and business uses. Activities shall be oriented to pedestrian traffic and to centralized parking. ~~The Town discourages businesses that - Businesses which~~ consume large amounts of land and interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this ~~Bylaw~~ ~~bylaw are discouraged~~.

5.5.2. Dimensional and Density Regulations

The dimensional and density requirements in this Section apply to principal and accessory uses and structures in the Business districts. Additional regulations affecting all districts can be found in Section 5.3.

A. Tables of Dimensional and Density Regulations

B District Lot Regulations

B District Yard and Open Space Requirements

B District Open Space and Lot Coverage

B District Building Height and Floor Area Ratio Regulations

[NOTE: Tables of Dimensional and Density Regulations omitted from this redline. See original documents.]

5.5.3. Use Regulations for Business Districts

[NOTE: Tables of Use Regulations omitted from this redline. See original documents.]

~~Section 4.04 - Multiple Business Uses~~

~~Other than Mixed-use, in cases of multiple business uses on a single lot, the regulation for each use shall apply to the portion of the building or land so used.~~

5.6.1. Districts and Purposes

Section 3.02 -- Description of Zoning Districts

A. MU: MU—Multi-Use. -The Multi-Use District ~~is composed of all those areas so designated on the official zoning map. Districts must contain at least one acre. The district~~ allows larger scale development only when controlled by the Arlington Redevelopment Board through urban renewal plans and Environmental Design Review. Designation as a Multi-Use District requires a minimum of one acre of land.

B. I: I—Industrial District. -The Industrial District ~~is composed of all those areas so designated on the official zoning map. These areas~~ in the Mill Brook Valley ~~allows~~allow uses requiring the manufacture, assembly, processing, or handling of materials which because of their traffic, noise, appearance, odor, or hazards would be disruptive to residential and other business uses. In this district, the Town discourages residential Residential uses, retail business uses, or uses which would otherwise interfere with the intent of this Bylaw~~bylaw~~ are discouraged. Mixed-use development is allowed ~~in this district~~, without residential space.

C. T: T—Transportation District. ~~In the~~The Transportation District, the principal ~~is composed of all those areas designated on the official zoning map. Principal~~ uses are bus terminals, open space uses, and the Minuteman Bikeway. Uses in conflict with these allowed uses or which otherwise interfere with the intent of this Bylaw~~bylaw~~ are prohibited.

D. PUD: PUD—Planned Unit Development District. -The Planned Unit Development District provides for large ~~is composed of that area so designated on the official zoning map. Large~~ scale, multi-use development ~~is permitted~~ upon approval of a development plan and the assembly of a large amount of land.

E. OS: Open Space District. The Open Space District includes parcels under the jurisdiction of the Park and Recreation Commission, Conservation Commission, Arlington Redevelopment Board, Massachusetts Department of Conservation and Recreation (DCR), or Massachusetts Bay Transportation Authority (MBTA). Structures, where present, are clearly accessory to the principal open space and recreation functions of the property.

~~OS—Open Space District. The Open Space District is composed of all those areas so designated on the official zoning map. The Open Space District is composed of parcels under the jurisdiction of Park and Recreation Commission, the Conservation Commission, the ARB, the MDC, or the MBTA. Structures where present are clearly accessory to the principle function of the property.~~

5.6.2. Dimensional and Density Regulations

The dimensional and density requirements in this Section apply to principal and accessory uses and structures in the MU, I, T, PUD, and OS districts. Additional dimensional and density regulations affecting all districts can be found in Section 5.3.

A. Tables of Dimensional and Density Regulations

Other District Lot Regulations

Other District Yard and Open Space Requirements

Other District Open Space and Lot Coverage

All Other District Maximum Height and Floor Area Ratio

[NOTE: Tables of Dimensional and Density Regulations omitted from this redline. See original documents.]

5.6.2(B). ~~Special Section 6.30~~ - Open Space Regulations for Planned Unit Developments

The minimum open space regulations for planned unit developments are as follows:

(1) Apartment buildings – 10% ~~Apartments – 10 percent~~ landscaped, ~~10% percent~~ usable.

(2) Hotel/motels – 10% ~~Hotels and motels – 10 percent~~ landscaped.

(3) Retail stores - None required around the building if an enclosed wall or arcade is provided facing each retail store. Without an enclosed wall or arcade, a minimum landscaped area of ~~10% percent~~ shall be required.

(4) Office and professional buildings ~~– 10%–10 percent~~ landscaped.

5.6.2(C).Section 6.10- Sale or Lease of Lots in a Planned Unit Development

Upon completion of Environmental Design Review under Section 3.4~~an environmental design review, as required in Section 11.06~~, individual tracts of land in the Planned Unit Development of at least 30,000 square feet may be leased or sold for development in accordance with the approved Planned Unit Development site plan without the provision of new setbacks for front, side, or rear yards. Each tract or lot so leased or sold must make provision for a principal building, off-street parking, and open space or plaza area to serve it as required in the PUD district.

~~Section 6.28 - Planned Unit Development Yards and Setbacks~~

~~In Planned Unit Developments the buildings upon the land may be built to any street line provided the street exceeds sixty (60) feet in width or the zoning on the opposite side of the street is not R2. In all other areas, the buildings shall be set back one-quarter of the height of the average of principal buildings along the lot line but not less than twenty-five (25) feet from all front, side, and rear lot lines.~~

5.6.3. Use Regulations for MU, PUD, I, T, and OS Districts

[Note: Table of Use regulations omitted from this redline. See original documents.]

~~5.7~~~~Section 11.04~~ - Floodplain District

5.7.1. Purposes

a. ~~OBJECTIVES.~~

The purpose of Section 5.7 is to:

~~The objectives of this District are to promote:~~

A. Protect the~~1. The~~ health and safety of the occupants of lands subject to seasonal or periodic flooding in the Mill Brook, Alewife Brook, Mystic River, and Mystic Lakes floodplain, as shown on the zoning overlay map of the Town of Arlington.

B. Prevent~~2. To prevent~~ the reduction of the water-carrying capacity of streams, brooks, rivers, and drainage courses by prohibiting the destruction or alteration of their natural character, and by preventing encroachment by future development, both public and private, in the floodway. A floodway includes the normal channel of a river or stream and those portions of the floodplains adjoining the normal channel which are reasonably required to carry off the flood flow.

C. Preserve~~3. The preservation of~~ the natural flood control characteristics and the water storage capacity of the floodplain.

D. Protect~~4. To protect~~ the public from hazard and loss through the regulation of future development of lands adjoining such watercourses.

E. Protect the~~5. The~~ safety and purity of water; control and containment of sewage; safety of gas, electric, fuel, and other utilities from breaking, leaking, ~~short-circuitingshortcircuiting~~, grounding, igniting, electrocuting or any other dangers due to flooding.

5.7.2. Boundaries

11.04 b. DEFINITION:

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Arlington designated a Zone A, AE and X on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NDIP). The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Arlington include the following panel numbers: 25017C0412E, 25017C0416E, 25017C0419E, dated June 4, 2010 (Scale 1"=500'). The exact boundaries of the District may be defined by the 1% annual (100 year flood) base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Department of Planning and Community Development and Conservation Commission.

~~The Floodplain District is superimposed over any other district established by this Bylaw. The 100-year floodplain is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to seasonal or periodic flooding by the watercourse or water body at a storm frequency of 100 years. Specifically, the Floodplain District includes those areas along the Mill Brook, Alewife Brook, Mystic River, Spy Pond, Arlington Reservoir, and Mystic Lakes which are in the 100-year floodplain as established on the Middlesex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the 100-year floodplain shown on the Middlesex County FIRMs (panel numbers 25017C0412E, 25017C0416E, 25017C0417E, 25017C0418E, and 25017C0419E), dated June 4, 2010, and further defined by the Middlesex County Flood Insurance Report (FIS), dated June 4, 2010. The FIRMs and FIS Report are incorporated herein by reference and are on file with the Town Clerk, Arlington Redevelopment Board, Director of Inspections, and Conservation Commission.~~

5.7.3. Applicability

~~11.04 c. INTERPRETATION AND APPLICATION:~~

A. Any proposed use, structure, development, filling, grading, or excavation within the Floodplain District shall be governed by all regulations of this Section ~~5.8, 11.04, Section 11.05 (Inland Wetland District)~~, G.L. c. 131, § 40, Wetlands Protection Regulations of the Town Bylaws (Title V, Article 8), Department of Environmental Protection (DEP) 310 CMR 10.00, Inland Wetlands Restriction (DEP) 310 CMR 13.00, and the section of the ~~Massachusetts~~ State Building Code that addresses floodplain ~~areas, and and coastal high hazard areas (currently 780-CMR-120.G, 'Flood Resistant Construction and Construction in Coastal Dunes', and~~ shall require a building permit. The extent of the Floodplain District shall be determined by the ~~Conservation Commission Inspector of Buildings under Section 3.05(g) of the bylaw.~~

B. ~~The phrase, "Board of Appeals or Arlington Redevelopment Board, as applicable", shall mean "subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.4, Environmental Design Review".~~

5.7.4. Section 6.02 - Setback from Open Stream

A building or structure, except for a retaining wall, ~~wharf~~, fence, or bridge, ~~may~~shall be set back ~~fifteen (15) feet from the embankment of any open stream; however, for construction in accordance with Special Permits issued under Section 11.04 (Flood Plain District) and/or Section 11.05 (Inland Wetland District), the setback may be less than~~ 15 feet by special permit from the Board of Appeals, following consultation ~~fifteen (15) feet. Before voting to grant said Special Permit the permit granting authority shall first consult with the~~ Arlington Conservation Commission.

5.7.5. Use Regulations

~~11.04 d. PERMITTED USES.~~

A. Prohibited Uses. No construction, development, or filling shall be permitted in the regulatory floodway as defined in the Middlesex County FIRMS.

~~Mobile homes shall not be permitted at any location in the Floodplain District, and no construction, development, or filling shall be permitted in the regulatory floodway as defined in the Middlesex County FIRMS. Certain uses may be permitted in the Floodplain District as follows:~~

B. Permitted Uses. The following uses are permitted in the Floodplain District:

1. As a Right

~~(1a) The following outdoor uses shall be permitted as of right a right subject to the further provisions of this Section 11.04(d) and provided no buildings or structures are erected: ~~From Section 5.04: Uses 3.01, 3.02, 4.01, 4.08; also, wildlife management areas, foot, bicycle, and/or horse paths.~~~~

~~Sales place for flowers as a principal use, garden supplies, agricultural produce, conducted partly or wholly outdoors, commercial greenhouse or garden~~

~~Farm (except the raising of livestock or poultry, if the farm is on less than five acres of land) or market garden but, unless otherwise exempt under state law, in no case, shall goods or produce be sold that are not the natural products of the premises in question~~

~~Park, playground, or other outdoor recreational facility not conducted as a private business
Country, fishing, tennis, swimming, skating, golf club or other outdoor recreation facility not conducted as a private business~~

~~Wildlife management areas~~

~~Foot, bicycle, or horse paths~~

~~(2b) For single-family detached dwellings, two-family dwellings, or duplex dwellings existing on the effective date of houses existing at the time this Section is advertised (August 28, 1975), the expansion of these (or their accessory) uses to a maximum of 15% fifteen (15) percent of the lot coverage existing when this section is enacted, provided that such expansions conform to this Section 5~~Section 6.00~~, and do not constitute substantial improvement of a structure. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which exceeds 50% percent of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Structures erected or expanded under this Section 5.7~~subsection 11.04(d)(1)~~ shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.~~

5.7.5(C). 11.04.d 2. By Special Permit.

The following shall require a special permit from the Board of Appeals or Arlington Redevelopment Board, as applicable.

~~No structure or building shall be erected, constructed, substantially improved, enlarged (except as provided in 11.04(d)(1)(b)), or otherwise created or moved, no earth or other material dumped, filled, excavated, or transferred, unless all the following conditions are found to exist as part of the granting of a Special Permit by the ZBA or, in cases subject to Environmental Design Review, the granting of a Special Permit by the ARB:~~

~~(1)2.1~~ The proposed use, including filling or excavating, when combined with all existing uses, will not increase the water surface in the 1% base flood elevation.~~elevation of the 100-year flood;~~

~~(2)2.2~~ The proposed use shall comply with the most stringent of the following regulations as amended in Massachusetts Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00 and Inland Wetlands Restriction (DEP) 310 CMR 13.00 and in the Conservation Commission's Wetlands Regulations promulgated under the Arlington Wetlands Bylaw (Title V, Article 8).

~~(3)2.3~~ Base Flood Elevation Data is required for proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones~~zones~~.

The provisions of this subsection ~~11.04(d)(2)~~ shall not apply to the reconstruction or repair of a structure, unless it constitutes substantial improvements existing prior to August 28, 1975~~as defined in 11.04 (d)(1.b), existing at the time of advertisement of this section (August 1975)~~ after a fire or other casualty ~~as provided in Section 9.06 of this Bylaw~~. However, major repairs shall use construction materials and utility equipment that are resistant to flood damage; and construction methods and practices that will minimize flood damage.

~~(4)2.4~~ In Zones A and AE, 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.

5.7.6. Procedures

~~11.04 c. PERMIT AND PROCEDURE.~~

A. Application. Applicants for a special permit shall be made to the Board of Appeals or the Arlington Redevelopment Board, as applicable, in accordance with its rules and regulations. Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental Protection, and the Massachusetts Highway Department under Chapter 131 of the General Laws, Acts Relating to the Protection of the Inland Wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for Special Permit with accompanying plans shall also be sent at the same time by the applicant to the Inspector of Buildings, Board of Health, the Conservation Commission, Town Engineer, and, if applicable, the ARB for their recommendations as to their approval, disapproval or appropriate recommendations.

B. The Board shall hold a public hearing in accordance with Section 3.3 of this Bylaw and G.L. c. 40A, §§ 9 and 11.

~~f. REQUIRED SUBMITTALS~~

C. The Board shall not take final action on an application for a special permit until it has received a report from the Building Inspector, the Board of Health, the Conservation Commission, Town Engineer, and the Arlington Redevelopment Board (if applicable) or until 35 days have elapsed after receipt of such application and plans without submission of a report.

1. Submission of a location plan at the scale of 1" = 600' showing the lot(s) to be developed, lot lines within which the development is proposed, and tie-in to the nearest road intersection.

D. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

2. A site plan at a scale of 1" = 50' shall be prepared by a registered land surveyor or registered professional engineer. The site plan shall be submitted to the ZBA and shall show at least the following:

(a) The location, boundaries, and dimension of each lot in question.

(b) Two-foot contours of the existing and proposed land surface.

(c) The location of existing and proposed structures, watercourses, and drainage easements, means of access, and drainage.

~~g. BOARD OF APPEALS PROCEDURE.~~

1. The ZBA shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Board of Health, the Conservation Commission, Town Engineer, and the ARB or until 30 days have elapsed after receipt of such application and plans without submission of a report.

~~2. The ZBA may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.~~

~~h. OCCUPANCY PERMIT.~~

~~E. No occupancy permit shall be issued for special permit uses under this Section~~subsection 11.04(d)(2)~~ until the Building Inspector~~Inspector of Buildings~~, and the Board of Health, the Conservation Commission, Board of Appeals, and Arlington Redevelopment Board~~ZBA and the ARB~~ have received a certified plan showing the foundation and flood elevations, elevations of the completed construction, and until all requirements of all permits are satisfied.~~

5.7.7. Areas, Open Space, and Yard Regulations

~~11.04 i. AREAS, OPEN SPACE, AND YARD REGULATIONS.~~

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

5.7.8. Exemptions

~~11.04 j. EXEMPTIONS IN THE FLOODPLAIN DISTRICT.~~

A. Where a proposed use is determined to fall within the limits of the Floodplain District ~~and,~~ ~~but~~ the applicant ~~for the proposed use~~ determines that the location ~~for his proposed use~~ is not included in the definition of the Floodplain District, said use may be exempt by the Board of Appeals or Arlington Redevelopment Board~~ZBA or the ARB~~, as ~~applicable~~~~the case may be~~, from the provisions of this section if the applicant provides sufficient evidence for the applicable Board~~to ZBA or the ARB in cases subject to Environmental Design Review to clearly~~ determine that the land in question should not be subject to the provisions of this Section.

B. If it is determined that an area of significant size should no longer be included within the Floodplain District due to a natural or man-made event which has altered the boundary, the floodline determining the boundaries of the Floodplain District may be changed with approval from Town Meetings~~subject to the provisions of Section 12.01 of this Bylaw~~ provided the new floodline to be adopted has been established in accordance with accepted engineering practice and certified by a registered professional engineer.

5.7.9. Notification of Alteration

~~11.04 k. NOTIFICATION OF ALTERATION:~~

In a riverine situation, the Director of Planning and Community Development shall notify the following of any alteration or relocation of a watercourse:

- Chief Executive Officers in Adjacent Communities

- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

~~Section 6.07 – Buildings in Floodplains~~

~~Dimensional and density regulations shall apply to buildings located in floodplains. Additional regulations are contained in Section 11.04.~~

5.8 Section 11.05 -- Inland Wetland District

5.8.1. Purpose

a. PURPOSE.

The purpose of Section 5.8 is ~~to this district~~ is:

A. Preserve~~1. To preserve~~ and protect the streams, water bodies, and other watercourses, including wetlands ~~and marshlands~~, in the Town of Arlington.

B. Protect~~2. To protect~~ the health and safety of persons and property against the hazards of flooding and contamination.

C. Preserve~~3. To preserve~~ and maintain the groundwater table for potential water supply purposes.

D. Protect~~4. To protect~~ the community against the detrimental use and development of lands adjoining such watercourses.

E. Conserve ~~5. To conserve~~ the watershed areas ~~in of the Town of~~ Arlington for the health, safety, and welfare of the public.

5.8.2. Definition

11.05 b. DEFINITION:

The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:

A1. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands. These include lakes, ponds ~~and swamps, swamps, and marshes.~~

B2. All land area along all rivers, brooks, and streams for a horizontal distance of 25 feet from the center line thereof are included in the Inland Wetland District.

C3. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.

5.8.3. Applicability

~~11.05 c. INTERPRETATION AND APPLICATION.~~

Any proposed use to be located within the limits of the Inland Wetland District as determined by the Inspector of Buildings under Section 3.05 of this Bylaw shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.

5.8.4. Permitted Uses

~~11.05 d. PERMITTED USE.~~

Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:

A1. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 9.06 of this Bylaw.

B2. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw ~~became~~becomes effective.

C3. No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued.

5.8.5. Procedures

~~11.05 e. PERMIT AND PROCEDURE.~~

Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental ~~Protection~~Quality Engineering, and the Massachusetts Department of Public Works under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for special permit with accompanying plans shall also be sent to the Inspector of Buildings, Board of Health, the Conservation Commission, Town Engineer, and, if applicable, the ARB for their recommendations as to their approval, disapproval or appropriate recommendations.

~~11.05 f. REQUIRED SUBMITTALS~~

~~1. Submission of a location plan at a scale of 1" = 600' showing the lot(s) to be developed, lot(s) lines within which the development is proposed, and tie-in to the nearest road intersection.~~

~~2. A site plan at a scale of 1" = 50' shall be prepared by a registered land surveyor or registered professional engineer. The site plan shall be submitted to the ZBA and shall show at least the following:~~

~~(a) The location, boundaries, and dimension of each lot in question.~~

~~(b) Two-foot contours of the existing and proposed land surface.~~

~~(c) The locations of existing and proposed structures, watercourses, and drainage easements, means of access, drainage, and sewage disposal facilities.~~

~~(d) The elevation of the basement and first floor.~~

~~(e) The area and location of leaching fields.~~

5.8.6. Development Conditions

11.05 g. DEVELOPMENT CONDITIONS.

A. For the development of land within the Inland Wetland District, ~~the following conditions shall apply:~~ 1. ~~If the lot(s) is to be served by a public sewerage system,~~ the following conditions shall apply:

(1a) A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.

(2b) The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.

(3e) If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage.- Furnace and utilities are to be protected from the effects of leaching.

(4d) Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.

2. ~~If the lot(s) is to be served by an on-lot septic system, the following conditions including those listed previously shall apply:~~

~~(a) The leaching area designed for use, as well as a reserved area for future expansion or total future use, shall be plotted with dimensions on the site plan.~~

~~(b) A minimum of two percolation tests per leaching area shall be performed. The maximum groundwater table shall be determined during the last two weeks of March or the first three weeks of April. At least two observation pits at least six (6) feet in depth shall be dug to determine soil profiles. The observation pits may be dug during other times of the year, and shall be accompanied by a detailed report compiled by a soil scientist or qualified engineer.~~

~~(e) The leaching areas shall not be constructed in areas where the maximum groundwater elevation is less than 4 feet below the bottom of the leaching areas.~~

B3. The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, ~~short-circuitingshortcircuiting~~, grounding, igniting or electrocuting; ~~shall not~~ obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater resources or increase ~~storm waterstormwater~~ run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.

~~11.05 h. BOARD OF APPEALS PROCEDURE.~~

~~1. The ZBA shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Board of Health, the Conservation Commission, Town Engineer, and the ARB, or until 30 days have elapsed after receipt of such plan without the submission of a report.~~

~~2. The ZBA may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.~~

~~i. OCCUPANCY PERMIT. No occupancy permit shall be issued until the Inspector of Buildings and the Board of Health, Conservation Commission, Town Engineer, and the ARB have received a certified plan showing the foundation and flood elevations, grading of the premises, elevations of the completed construction, and all elevations of the various elements that make up the sewage disposal system, and until all requirements of all permits are satisfied.~~

~~j. AREAS AND YARD REGULATIONS. The portion of any lot within the Inland Wetland District may be used to meet the lot area, open space and yard requirements for the District in which the remainder of the lot is situated.~~

~~k. EXEMPTIONS IN THE INLAND WETLAND DISTRICT. Where a proposed use is determined to fall within the limits of the Inland Wetland District, but the applicant for the proposed use determines that the location for his proposed use is not wet or subject to periodic flooding and should not, therefore, be included in the definition of the Inland Wetland District, said use may be exempt by the ZBA from the provisions of this section if the applicant provides sufficient evidence for the ZBA to clearly determine that the land in question should not be subject to the provisions of this Section.~~

5.9.1. Section 5.05 - Home Occupation

A. In any Residential District, For the use of a dwelling in any "R" district for a home occupation is permitted if all, the following conditions are met: shall apply:

(1)a. No nonresident shall be employed therein.

(2)b. Not more than 25% twenty-five (25) percent of the existing gross floor area of the dwelling unit in the principal building, not to exceed 600six hundred (600) square feet, is devoted to the home occupation, and such use. In connection with such use, there is to be kept no stock in trade, commodities, or products shallwhich occupy space beyond these limits.

(3) Theree. That there shall be no display of goods or wares visible from the street.

(4)d. All advertising devices visible from off the lot are specifically prohibited.

(5)e. The buildings or premises occupied shall not have a detrimental impact on be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a structure containing more than one dwelling unit, the use shall notin no way become objectionable or detrimental to any residential use within the structure.

(6)f. Any such building shall include no feature of design not customary in buildings for residential use.

B. Where permitted or allowed by special permit in the use regulations, a physician may operate an office from the physician's residence with up to one nonresident employee.

~~Section 5.06 - Joint Occupancy of Schools~~

~~Portions of Arlington public schools may be occupied by a use(s) unrelated to public educational purposes provided the use(s) is in accordance with guidelines passed by the Arlington School Committee and a special permit granted by the ARB pursuant to Section 11.06, Environmental Design Review.~~

~~Section 11.07 - Filling of Any Water or Wet Area~~

~~For the filling in of any pond, lake, swamp, or other existing body of water or wet area, and the filling in of any swale, valley, or other area or depression, where such filling in requires an amount of fill equivalent to five hundred (500) cubic yards or more, or where the area to be filled in exceeds ten thousand (10,000) square feet and where such filling has received prior approval of the appropriate state officials under the applicable provisions of Chapter 131 of the General Laws, the following conditions apply:~~

- ~~a. A location plan at a scale of one (1) inch equals six hundred (600) feet showing the area to be filled in, property lines within which the filling is proposed and tie-in to the nearest road intersection shall be submitted.~~
- ~~b. A site plan shall be submitted to a scale of one (1) inch equals forty (40) feet of the premises and surrounding area within one hundred (100) feet showing, in addition to a. above, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered professional engineer or registered land surveyor.~~
- ~~e. Provision shall be made for temporary and permanent drainage of the site.~~
- ~~d. Fills shall be limited to terrace fills which are not to exceed ten (10) feet at any one (1) time nor be within ten (10) feet of an adjacent property line or any cut.~~
- ~~e. Regrading of all parts of the slopes resulting from such fill shall be carried out.~~
- ~~f. At least four (4) inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces with seeding with a perennial cover crop, reseeding as necessary to assure uniform growth and soil surface stabilization.~~
- ~~g. A plan for lighting if night operation is contemplated shall be submitted.~~
- ~~h. Where any fill will have a depth of ten (10) feet or more and create a slope of more than one in two, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.~~
- ~~i. The planned filling in shall be consistent with any recreation, conservation and open space plan as prepared by the ARB or the Department of Planning and Community Development.~~

~~j. Documentation shall be submitted as to the effect of such filling in on drainage both within the immediate area and sufficiently far downstream as required by the Building Inspector and in accordance with Section 11.04.~~

Section 6. Site Development Standards

6.1 OFF-STREET PARKING -- 6.1.1. Purposes
Section 8.01 -- Off-Street parking Requirements

The purposes of this Section 6.1 are to:

A. Provide for safe and convenient vehicular parking areas and delivery areas;

B. Promote safety for pedestrians, bicyclists, motor vehicle occupants, and property and business owners;

C. Promote off-street parking in the Residence Districts in a manner that preserves, to the extent possible, landscaped front yards by allowing the use of a front yard for off-street parking only under exceptional circumstances.

6.1.2. Applicability

No land, building, or structure shall be used or changed to a category of greater parking demand, determined in accordance with the Table of Off-Street Parking Regulations below, except in accordance with this Section 6.1.

6.1.3. Administration

A. This Section 6.1 shall be administered by the Building Inspector for a use or activity that requires neither a special permit from the Board of Appeals nor Environmental Design Review by the Arlington Redevelopment Board. Where the phrase, "Board of Appeals or Arlington Redevelopment Board, as applicable," appears in this Section 6.1, it shall mean "subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.4, Environmental Design Review".

~~B. It is the intent of this section to encourage and promote off-street motor vehicle parking in the Residence Districts and to allow the use of a front yard for such off-street motor vehicle parking only under exceptional circumstances. It is further the intent to preserve, insofar as possible, the landscaped front yard on each lot. After the effective date of this Bylaw, off-street parking space shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use, or any change in an existing use in its entirety in accordance with the Table of Off-Use Regulations (see Article 5), the Table of Off-Street Parking Regulations, and the other requirements contained in this Section 6.1 herein.~~

6.1.4. Table of Off-Street Parking Regulations

The minimum number of off-street parking and loading spaces shall be as set forth in the following table. Off-street parking requirements for a use not specifically listed below shall be as determined by the Building Inspector based on a listed use of similar characteristics of parking demand generation.

[Note: Table of Parking Regulations omitted from this redline. See original documents.]

6.1.5. Section 8.01(a)—Parking Reduction in Business, Industrial, and Multi-Family Residential Zones.:

The Board of Appeals or Arlington Redevelopment Board, as applicable, may ZBA, or in cases subject to Section 11.06, the ARB may grant a special permit to allow the reduction of the parking space requirements in the R5, R6, R7, and Business and Industrial Zoneszones to 25 percent % of that required in the Table of Off-Street Parking Regulations if the proposed where parking is deemed adequatefound to be adequate, and where Transportation Demand Management practices are incorporated, as evidenced by a Transportation Demand Management Plan approved by the Special Permit Granting Authority. Methods to reduce parking on site may include but are not limited to:

A1. Shared Parking: To implement shared on-site parking, the applicant shall demonstrate that proposed uses are non-competing. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demand for non-competing uses. In these cases, such eases the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.

B2. Off-site Parking. An applicant may use off-site parking to satisfy their parking requirements , where alternative parking is within 600 feet of the subject property, as provided in Section 6.1.10. The applicant 8.06. Off-site parking may be provided in public lots located within 1,000 feet of the building, as provided in Section 8.11. Applicant shall document efforts to promote use of off-site parking by customers, residents, or employees.

C3. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM Transportation Demand Management provides incentives to reduce the use of Single Occupant Vehicles, and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must employ at least three (3) TDM methods described below:

- (1)a. Charge for parking on-site;
- (2)b. Pay a stipend to workers or residents without cars;
- (3)e. Provide preferential parking for carpooling vehicles;
- (4)d. Provide a guaranteed emergency ride home;
- (5)e. Provide transit pass subsidies;
- (6)f. Provide covered bicycle parking and storage;
- (7)g. Provide bicycle or car sharing on site;
- (8)h. Provide showers, for business or industrial uses;
- (9)i. Other means acceptable to the applicable Special Permit Granting Authority, permit granting authority

6.1.6. Table of Section 8.02 – Off-Street Loading and Unloading Regulations Requirements

~~The For every building hereafter erected for retail; personal, consumer, & business services; eating & drinking; light industry; utility, transportation, & communications; commercial, & storage; wholesale business and storage; institutional, & educational; public, recreational, & entertainment; or office uses as specified in the Table of Use Regulations and for every such use hereinafter established in an existing building or area, the off-street loading and unloading requirements presented in the Table of Off-Street Loading and Unloading Regulations shall apply to any nonresidential use. The Board of Appeals or Arlington Redevelopment Board, as applicable, In the case of uses which require a Special Permit, the Special Permit Granting Authority may reduce the loading requirements, including the size of the loading space, if it finds that so doing will not be detrimental to the structure or surrounding uses.~~

[Note: Table of Off-Street Loading and Unloading Regulations omitted from this redline. See original documents.]

6.1.7. Existing Spaces

~~Section 8.03 - Existing Spaces~~

Parking or loading spaces being maintained in any ~~District for district in connection with~~ any existing use on the effective date of this Bylaw, or any spaces subsequently provided in accordance with this Bylaw, shall not be decreased or in any way removed from service to the use originally intended to be served so long as ~~thesaid~~ use remains, unless a number of parking or loading spaces is constructed elsewhere on property under the same ownership. ~~However, -~~ ~~provided:~~ this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables in this Section 6.1.

6.1.8 ~~Section 8.04~~ - Computation of Spaces

When the computation of required parking or loading spaces results in ~~the requirement of~~ a fractional space, any fraction of one-half or more shall require one parking(~~1~~) space.

~~6.1.9 Section 8.05~~ - Combined Facilities

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, provided there is a legally enforceable shared parking agreement executed by all parties concerned and approved by the Board of Appeals or Arlington Redevelopment Board, as applicable, as part of the special permit process and recorded with the Middlesex South Registry of Deeds~~by special permit from the ZBA, or in cases subject to Section 11.06, the ARB~~ where it is evident that such facilities will continue to be available for the several buildings or uses.

6.1.10 ~~Section 8.06~~ - Location of Parking Spaces

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve, or when practical difficulties ~~as determined by the ZBA, or in cases subject to Section 11.06, the ARB~~ prevent their establishment ~~on upon~~ the same lot, they shall be established no further than ~~600 six hundred (600)~~ feet from the premises ~~they serve, subject to approval by the Board of Appeals or Arlington Redevelopment Board, as applicable to which they are appurtenant~~. Such spaces may be located ~~outside out of doors~~ or within a structure designed as a public or private garage. Projects subject to Section 3.4, Environmental Design Review ~~under Section 11.06~~, may provide parking off-site within ~~600 feet six hundred (600) feet~~, where it can be shown that a long-term, legally enforceable agreement has been made to secure off-site parking.

6.1.10 (A) ~~Section 8.07~~ - Parking in Residential Districts.

~~For single-family.~~ For single, two-family, ~~or~~ duplex, and three-family dwellings, off-street parking shall not be permitted in the area between the front lot line and the minimum front ~~yard~~ setback except on a driveway not exceeding ~~20~~twenty (20) feet in width leading to the required parking space(s). Off-street parking is permitted in (1) the side yard and rear yard on a paved driveway, or in the case of a corner lot of less than ~~6,000~~six thousand (6,000) square feet in the longer of the two front yards, up to a maximum of 24 feet in width, or (2) in an attached or detached garage, or (3) within the foundation of a dwelling provided the garaging is specifically designed for that purpose. Any driveway leading to off-street parking on a lot cannot exceed a 15% downward slope, as measured from the farthest point from the front property line, except by Special Permit. A space designed for parking within an existing garage is determined to meet the requirements of an off-street parking space. Side yards used for parking shall have a vegetated buffer when abutting a lot used for residential purposes, to minimize visual impacts.

~~b. For single-family, two-family, or duplex, and three-family dwellings in R0, R1, R2, R3 and R4 districts, not more than one driveway shall be permitted~~is permitted, unless there is a finding by the Special Permit Granting Authority for the development special permit granting authority that a second driveway or a driveway that makes more than one intersection with the street, may be added in a manner that avoids such manner as to avoid an undue concentration of population, allows~~allow~~ adequate provision of transportation, and conserves~~conserve~~ the value of land and buildings in the vicinity. In no case may a second driveway for a single-family, two-family, ~~or~~ duplex, or three-family dwelling violate any other dimensional or density regulations for the district in which it is located. For single-family, two-family, duplex, and three-family dwellings in R0, R1, R2, R3, and R4 districts, not more than two driveways are permitted.

~~c. For single, two-family or duplex, and three-family dwellings in R0, R1, R2, R3, and R4 districts, not more than two driveways are permitted.~~

6.1.10 B. ~~Section 8.07(a)~~—Parking in Commercial Districts.

For properties located in the ~~Business Districts, B1, B2, B2A, B3, B4, and B5 districts,~~ no parking shall be permitted in the front yard; nor shall any driveways directly in front of a structure be permitted without a finding by the ~~Board of Appeals or Arlington Redevelopment Board, as applicable~~ZBA or, in cases subject to Section 11.06, the ARB, that the parking or driveway is necessary and convenient to the public interest.

C. ~~Section 8.07(b)~~ For Mixed-Use development, the first 3,000 square feet of non-residential space is exempt from ~~the parking requirements of this Section 6.1~~parking requirements.

D. ~~Section 8.11~~—Public Parking Lots.

The ~~Board of Appeals or Arlington Redevelopment Board, as applicable, ZBA, or in cases subject to Section 11.06, the ARB by special permit~~ may allow the substitution of space within ~~public parking lots~~Public Parking Lots in lieu of parking requirements of this ~~Section 6.1 article,~~ provided they are located within ~~1,000 one thousand (1000)~~ feet of the building ~~which is intended~~ to be served.

E. ~~Section 8.09~~—Location of Loading Spaces.

The loading spaces required for the uses listed in the Table of Off-Street Loading and Unloading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Bylaw.

6.1.11. ~~Section 8.12~~ - Parking and Loading Space Standards

A. ~~A~~ -parking space may be inside or outside a structure and shall be for the exclusive use of one motor vehicle. ~~Spaces~~~~Those~~ entered from the front or rear, and stacked spaces, shall have minimum dimensions of ~~8.5 feet by 18~~~~eight and one-half by eighteen~~ feet. Compact car parking spaces permitted in accordance with ~~Paragraph C~~~~Section 8.12~~(11) ~~below~~ shall be at least ~~8 feet by 16~~~~eight by sixteen~~ feet. For parallel parking, a space shall have minimum dimensions of ~~8~~ feet by ~~22~~~~twenty-two~~ feet, except that such spaces which are open and unobstructed at one end may be only ~~18~~~~eighteen~~ feet in length. In ~~conforming one and two-family residential side yards, or nonconforming pre-existing one and two-family residential side yards,~~ the width of a parking space may be the width of the side yard, but in no case less than ~~7.5 feet, seven and one-half feet."~~

B. ~~Parking areas with five spaces or less shall be surfaced with a permanent pervious or impervious material or binder.~~

~~Section 8.10 - Pavement of Parking Spaces. Parking areas with five (5) spaces or less shall be surfaced with a permanent material or binder such as bituminous cement, concrete, porous asphalt, pervious concrete, concrete brick, paving stones, grass pavers, bluestone, stone dust, star pack, or similar stable gravel materials, or other material which shall be nonerosive material.~~

C. ~~8.12 a.~~ All parking and loading areas containing over five ~~(5)~~ spaces, including automotive and drive-in establishments of all types, shall be paved and subject to the following:

6.1.11(C) ((1) The parking and loading areas and area and access driveways ~~thereto~~ shall be surfaced with pervious or impervious bituminous or cement concrete material and shall be graded and drained ~~so as~~ to dispose of all surface water accumulation in accordance with acceptable engineering practices and shall be subject to approval by the Town Engineer. ~~The use of porous asphalt, pervious concrete, paving stones, or grass pavers may also be used to meet this requirement, in whole or part, subject to the approval of the Town Engineer.~~ The location of spaces shall be suitably marked by painted lines or other appropriate markings.

(2) A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways ~~in order to~~ protect abutting structures, properties and sidewalks and screening materials.

(3) Each required off-street parking space shall have direct access to an aisle or driveway having a minimum width of ~~24twenty-four (24)~~ feet in the case of two-way traffic or the following widths in the case of one-way traffic only:

Angle of parking	Minimum aisle width
Parallel	12 ft
30 deg	11 ft
45 deg	13 ft
60 deg	18 ft
90 deg	24 ft

(4) Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

(5) ~~No There shall not be any~~ business operation for vehicle repair, ~~or~~ gasoline or oil service facilities, or any repair ~~made~~ to any motor vehicles shall be conducted, except on a lot occupied by a permitted automotive use. Any accessory gasoline or oil facilities shall be at least ~~25twenty-five (25)~~ feet from any lot line.

(6) ~~Except for duly authorized yard sales, the There shall not be any~~ storage of materials or equipment or, ~~with the exception of duly authorized yard sales,~~ display of merchandise within the required parking area is prohibited.

(7) Any portion of any entrance or exit driveway shall not be closer than ~~50fifty (50)~~ feet to the curb line of an intersecting street.

(8) Any two ~~(2)~~ driveways leading to or from a street, or to or from a single lot, shall not be within ~~30thirty (30)~~ feet of each other at their intersections with the front lot line for an interior lot and ~~40forty (40)~~ feet from the intersection of the lot line with the street right-of-way for a corner lot.

(9) Any entrance or exit driveway shall not exceed ~~24twenty-four (24)~~ feet in width at its intersection with the front lot line except for automotive service stations and fire stations, in which cases the width may be increased to ~~40forty (40)~~ feet.

(10) In R0, R1, R2, R3, and R4 zones, ~~the Board of Appeals or Arlington Redevelopment Board, as applicable, the ZBA, or in cases subject to Section 11.06, the ARB~~ may grant a special permit to allow the reduction of the parking space requirements to ~~80% eighty (80) percent~~ of that required in the Table of Off-Street Parking Regulations where conditions unique to the use ~~will~~ reasonably justify such a reduction.

(11) The ~~Board of Appeals or Arlington Redevelopment Board, as applicable~~ZBA, ~~or in cases subject to Section 11.06, the ARB,~~ may grant a special permit allowing up to ~~20% percent~~ of the spaces in a parking lot or garage to be sized for compact cars.

~~6.1.11 D. 8.12 b.~~ All parking and loading areas containing over five ~~(5)~~ spaces which are not inside a ~~structure~~ shall also be subject to the following.

(1) The surfaced area shall be set back at least ~~10ten (10)~~ feet from front lot lines and from all lot lines of abutting property used for residential purposes; however, for side and rear lot lines the setback need only be five ~~(5)~~ feet if the setback includes a solid wall or solid wooden fence, five ~~(5)~~ to six ~~(6)~~ feet in height complemented by suitable plantings. In no case shall the paved area be set back from the front lot line a distance less than the minimum front yard setback for the district, nor from a side or rear lot line a distance less than the minimum buffer width required in the Density and Dimensional Regulations of the district by Section 6.16(a). Where deemed appropriate by property owner, acceptable to ~~and~~ immediate abutters, and ~~as~~ approved by the Building Inspector~~building inspector~~, another wall or fence height or fence type, ~~including but not limited to coated chain link or "wrought iron" types~~ may be substituted for the required wall or fence.

(2) The area shall be effectively screened with suitable planting or fencing on each side ~~that which~~ faces abutting lots used for residential purposes. ~~The~~Such screening shall be within the lot boundaries; and at least five ~~(5)~~ feet and not more than six feet high (6) feet in height. Parking areas and access driveways accessory to any multi-family dwelling shall be separated from ~~the said~~ building by a buffer strip of green open space not less than five feet wide (5) feet in width and suitably planted. ~~The area within the setback from the front lot line shall be landscaped and shall contain a compact hedge, fence, or berm at least three (3) feet high, placed parallel to the street except within ten (10) feet of driveways.~~

(3) The area within the setback from the front lot line shall be landscaped and shall contain a compact hedge, fence, or berm at least three feet high, placed parallel to the street except within 10 feet of driveways.

~~(3) Parking shall not be located within the required front yard area in any district.~~

(4) Parking shall not be located within the required front yard area in any district.

~~(4) Parking and loading spaces other than those required for single- and two-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.~~

(5) Parking and loading spaces other than those required for single-family and two-family dwellings shall be so arranged to avoid backing of vehicles onto any street.

~~(65) Parking areas providing more than 25twenty-five (25) spaces shall include landscaped areas in area which is at least 8% eight (8) percent of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four feet wide (4) feet in width.~~

~~6.1.11 E. The landscaping 8.12 e. The~~ standards of Section ~~6.1.118.12~~ may be modified to increase capacity for parking lots if both of the following conditions are satisfied as findings of a special permit:

(1) Reasonable alternative measures have been taken to meet the intent of these standards: ~~-~~ ~~which is~~ to minimize traffic congestion entering and within parking lots, separate parking from pedestrian spaces, provide adequate drainage, screen parking lots from adjacent, residential uses and from street frontages (preferably with landscaped spaces), and facilitate snow removal and storage; ~~and~~

(2) All landscaped space required by ~~this section~~~~section 8.12~~ is provided at some location in the parking lot, including required landscaping which may be lost in setbacks reduced in size by the provisions of this subsection.

~~The special permit for this subsection shall be heard and decided by the ZBA, except for petitions before the ARB in accordance with Section 11.06, in which case the modification of parking standards shall be heard and decided by the ARB.~~

6.1.12, Section 8.13 - Bicycle Parking

~~A. The intent of this section is to provide standards for orderly and safe bicycle parking. Bicycle parking spaces shall be provided for any development subject to Section 3.4, Environmental Design Review and any use requiring eight or more vehicle parking spaces under Section 6.1.4. (Section 11.06). The bicycle parking requirement will be determined based on the number of motor vehicle parking spaces which have been permitted by the Board of Appeals or Arlington Redevelopment Board, as applicable. The requirements of this section may be modified by the applicable Board if it finds that for the use and location, a modification is appropriate and in the best interest of the town special permit granting authority; if fewer than 8 motor vehicle parking spaces are provided by special permit, bicycle parking will not be required.~~

~~Ba. When bicycle parking is required, there will be one bicycle parking space per 15 fifteen motor vehicle spaces under Section 6.14, as required in Section 8.01 - Off-Street Parking Requirements. The computed number of bicycle parking spaces will be rounded up to the nearest whole number of bicycle spaces. Bicycle parking spaces shall be provided in addition to motor vehicle parking spaces.~~

~~Cb. When bicycle parking is required, there will be a minimum of two2 spaces provided, and; not more than 20 bicycle spaces will be required at a single site.~~

~~De. A bicycle rack, or bicycle storage fixture or structure shall accommodate a bicycle six6 feet in length and two feet wide2 feet in width. Bicycle racks or storage fixtures must be secured against theft by attachment to a permanent surface. Bicycle parking apparatus shall be installed in a manner that will not obstruct pedestrian or motor vehicle traffic.~~

~~Ed. To the extent feasible, bicycle parking shall be separated from motor vehicle parking to minimize the possibility of bicycle or auto damage.~~

~~Ee. The following uses ("use" numbers in parentheses refer to Section 5.04 - Table of Use Regulations) are exempt from bicycle parking requirements: places of worship, cemetery (2.05), cemetery (2.09), funeral home (6.10), automotive repair shop, car wash, or gas station (6.03, 7.06, 7.07), car wash (6.04), gas station (6.05).~~

~~The requirements of this section may be modified by special permit where there is a finding by the special permit granting authority that, for the use and location, a modification is appropriate and in the best interest of the Town.~~

~~Section 8.08 - Parking of Commercial Vehicles~~

~~The parking of commercial vehicles shall be in accordance with the Table of Use Regulations in Article 5.~~

6.2 Signs - 6.2.1. Purpose
~~Section 7.01 - Intent and Purpose~~

The purpose of this Section 6.2 is to:

~~It is recognized that signs perform important functions in the community which are essential for the public safety and general welfare, such as communicating messages, providing information about goods and services available, and providing orientation. It is further recognized that because of their potential detrimental impact on the visual and perceptual environment, signs must be regulated in order to:~~

Aa. Prevent hazards to vehicular and pedestrian traffic;-

Bb. Prevent conditions which have a blighting influence and contribute to declining property values;-

Ce. Provide for easy recognition and legibility of all permitted signs and other uses in the immediate vicinity;-

Dd. Preserve the amenities and visual quality of the town and curb the deterioration of the community environment; and:-

E. Maintain public safety, consistent with constitutional requirements protecting freedom of speech.

~~It is the intent of this article to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and to encourage the most appropriate use of land.~~

~~6.2.2. Section 7.02 - Applicability~~

All ~~outdoor signs and window signs~~ are subject to the regulations of this Section 6.2 unless ~~specifically excluded hereinsigns shall comply with the regulations for the erection and construction of signs contained in the Building Code of the Commonwealth of Massachusetts and other applicable town bylaws~~. No signs shall be hereinafter constructed, maintained, or permitted except in accordance with ~~this Section, the following regulations:~~

6.2.3. Administration

The Building Inspector shall have authority to issue sign permits under this Section 6.2. Where the phrase, “Board of Appeals or Arlington Redevelopment Board, as applicable,” appears in this Section, it shall mean “subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.5, Environmental Design Review”.

6.2.4 ~~Section 7.03~~ - General Regulations

The provisions of Sections 6.2.4 ~~Section 7.03~~ shall be the general controlling section for all signs. Specific regulations by zoning district are set forth in Sections 6.2.9 ~~7.071 to 7.076~~.

Aa. Any traffic, directional, informational, educational, or identification sign owned and installed by a governmental agency shall be permitted, including, notwithstanding any other provision of this Bylaw ~~these Bylaws~~, promotional, informational, and/or directional signage placed by the Town relative to historic sites. Acknowledgement of any commercial sponsorship on these signs ~~such a sign~~ shall not exceed 3% of the sign area.

B. b. A sign (including interior window displays or banners, either temporary or permanent) or its illuminator shall not because by reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal, or traffic marking.

C. e. No red or green lights shall be used on any sign if, in the opinion of the Building Inspector ~~Inspector of Buildings~~ with the advice and consent of the Police Chief, the Director of Police Services, ~~such~~ light would create a driving hazard.

D. d. No sign shall be illuminated between 12:00 AM ~~midnight~~ and 6:00 AM ~~00 a.m.~~, except signs identifying police or fire stations or hospitals, and except signs on premises open for business during that time ~~and then only while open for business~~.

Ee. All illumination shall be either interior and non-exposed by a window ~~nonexposed~~ or exterior and shielded and directed solely at the sign and shall be steady and stationary and of reasonable intensity, except that interior illumination is prohibited for bracket signs. Signs fabricated with letters, numbers, designs, or images consisting of a visible light source emitted from the face of the sign, including, but not limited to, incandescent and fluorescent bulbs, LED price signs, LED and digital displays, and neon tubes, are prohibited.

F. g. In buildings where the first floor is substantially above grade and the basement is only partially below street grade, one sign for each level is allowed if each sign has only one half the square footage of sign area as would be permitted for a single sign.

Gh. The limitations as to the number of signs permitted do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, or and visitors, whether in a vehicle or on foot, of any business, industry, or residence. Such signs shall not carry the name of any business or product and ~~Such signs~~ shall not exceed one ~~(1)~~ square foot in area.

Hi. One informational sign up to four ~~4~~ square feet in area, indicating the existence of, and meeting time and place among other things of an Arlington civic organization, may be erected only after the granting of a special permit. The exact size, design, content, and location shall be determined in ~~subjects of~~ the special permit. Signs of several ~~Several such signs of~~ service organizations may be consolidated into one sign, in which case the maximum sign area shall be

limited to four square feet times the number of organizations listed on the sign.

~~Ij. Two signs identifying churches, synagogues, and other similar religious uses are permitted on each street frontage, one of which may not exceed 20 square feet in area and one which may not exceed 10 square feet in area. One sign may be free-standing and may be used for church notices and announcements of services and events conducted on the premises. at the church, synagogue or similar religious institution.~~

~~Ik. One sign, up to one (1) square foot in area, is allowed per residence indicating the name and address of the occupants. therein.~~

~~K. In any district, one sign is allowed for each of the following, provided it shall not exceed six square feet in area and shall be located on the face of the building or free-standing and set back at least 10 feet from the lot line:~~

~~l. One sign is allowed for each of the following in any zone:~~

- ~~(1) Membership club~~
- ~~(2) Community facility~~
- ~~(3) Funeral establishment~~
- ~~(4) Public utility~~
- ~~(5) Place of public assembly~~
- ~~(6) Premises for sale or lease~~

~~Provided such signs above shall not exceed six (6) square feet in area and it shall be located on the face of the building or free-standing and set back at least 10 feet from the lot line.~~

L. A construction project sign indicating the name of the engineer, architect, and contractor or other firms associated with the project, provided it does not exceed 32 square feet in area. _

Mm. One temporary sign is allowed per establishment for a period not to exceed 60 days, providing the sign does not exceed the size of the maximum allowed for the site in the district in which it is located. No more than one temporary sign permit may be issued for a site in a calendar year. Before a temporary sign (other than a temporary sign placed in a window) shall be erected, there shall ~~a deposit left be deposited~~ with the Building Inspector ~~Inspector of Buildings~~ ~~the sum of \$20 in cash~~ for each sign. The deposit shall be refunded only upon the removal of the sign. Temporary signs larger in size or displayed more often than allowed by this bylaw may be authorized for public or charitable purposes. _____

Nn. A sign area larger than that specifically allowed in ~~this Section 6.2.17.05 through 7.076~~ is allowed by special permit under Section 6.2.11. ~~only upon completion of the procedures listed in 7.09.~~

Oo. In any district that allows wall signs, a structure may have no more than two of the following categories of signs: wall sign, window sign, and awning sign.

Pp. The lettering on any sign indicating that a business is open or closed may not exceed six inches in height.

Qq. Notices in compliance with Title V, Article 1 of the Town Bylaws are allowed in any ~~District~~ district.

~~6.2.5. Section 7.04 -~~ Prohibited Signs

The following signs shall not be permitted, constructed, erected, or maintained.

~~Aa.~~ Signs which incorporate in any manner flashing, moving, or intermittent lighting, excluding public service signs showing time and temperature.

~~Bb.~~ Wind signs, including banners, pennants, spinners, streamers, and other wind-actuated components.

~~Ce.~~ String lights used in connection with commercial premises with ~~except for the exception of~~ temporary lighting for holiday decoration.

~~Dd.~~ Any sign which advertises a business no longer in existence, or a product or service no longer sold.

~~Ee.~~ Portable signs.

~~Ff.~~ Window signs which cover more than 25% ~~percent~~ of the area of the window.

~~Gg.~~ Signs for home occupations. _

~~Hh.~~ Signs, except awning signs, painted or posted directly on the exterior surface of any wall.

~~Ii.~~ Signs ~~that erected so as to~~ obstruct any door, window or fire escape on a building.

~~Jj.~~ Signs constructed, erected, or maintained ~~on upon~~ the roof of any building.

~~Kk.~~ Signs which project over a public right-of-way, ~~except for with the exception of~~ wall signs which may project no more than 12 inches from a building face, and with the further exception of bracket signs in the B3 and B5 zoning districts.

~~l.~~ Signs in the R, B1 and OS districts containing a registered trademark or portraying a specific commodity for sale.

~~L.~~ Signs in the R, B1 and OS districts containing a registered trademark or portraying a specific commodity for sale. In all other districts, signs which contain a registered trademark or portray a specific commodity for sale occupying more than 10% ~~percent~~ of the sign area, unless ~~the said~~ registered trademark or commodity is the principal activity conducted therein. _

~~Specific regulations controlling nonaccessory signs are set forth in Section 7.11.~~

6.2.6. Signs Permitted in Any~~Section 7.05 - Signs permitted in any~~ R District

One unlighted, permanent sign for any permitted use except a residence or home occupation sign or signs controlled by Section ~~6.2.97.071~~ not to exceed four ~~(4)~~ square feet in area and if a ground sign, set back not less than one half the depth of the front yard.

6.2.7. Section 7.05a - Signs for Bed and Breakfast Signs~~Breakfasts~~

A bed and breakfast ~~or a bed and breakfast home~~ in any zoning district may not have more than one permanent, unlighted sign, not to exceed four square feet in area, and if a ground sign, it must be set back not less than half the depth of the front yard.

6.2.8. Signs Permitted in Any~~Section 7.06 - Signs permitted in any~~ B, I, or PUD District

A~~a~~. One wall sign for each street or parking lot frontage of each establishment. Unless further limited by the provisions of Section ~~6.2.97.071 and 7.072~~, there shall not exceed a total of two permanent signs for any one business or industrial establishment, including freestanding signs but excluding window signs, directional signs, directories, marquees, and awnings.

B~~b~~. One directory of the occupants or tenants of the building affixed at each entrance not exceeding an area determined ~~as on~~~~on the basis of one (1)~~ square foot for each occupant or tenant.

C~~c~~. One marquee sign for each public entrance to a theater provided that the marquee shall not be more than four ~~(4)~~ feet overall in height.

D~~d~~. One awning sign for each display window of a store.

6.2.9. Special Controls by Zoning District

7.071 – Signs Permitted in B1, R6, R7 Districts

A. Signs Permitted in R6 and R7 Districts. Not more than one accessory wall sign up to a maximum of 20 square feet in area, or ground sign up to a maximum of eight ~~square (8) square~~ ~~per~~ feet in area, per building. ~~Buildings except that in R6 and R7 districts, buildings~~ which were originally designed for commercial use; may have one permanent wall sign not to exceed two feet in height, and if containing a trademark or if portraying a specific commodity for sale, such trademark or commodity shall not occupy more than ~~10% ten percent~~ of the sign area, unless said trademark or commodity is the principal activity conducted therein.

B. Signs Permitted in B1 Districts. Not more than one accessory wall sign up to a maximum of 20 square feet in area, or ground sign up to a maximum of eight square feet in area, per building.

6.2.9 C.7.072 - Signs Permitted in Any B2 or T Districts.~~District~~

One permanent wall sign not to exceed two ~~(2)~~ feet in height or a ground sign not to exceed ~~20~~twenty (20) square feet in area and if containing a registered trademark or portraying a specific commodity for sale, such trademark or portrayal shall not occupy more than ~~10~~ten (10) percent of the sign area unless said registered trademark or commodity is the principal activity conducted therein.

~~6.2.9 D.7.073~~ - Signs Permitted in Any B3, B5 I, or PUD ~~Districts.~~ District

One permanent wall sign for each street or parking lot frontage of each establishment, and if containing a registered trademark or portraying a specific commodity for sale, such trademark or commodity shall not occupy more than 10 percent of the sign area, unless said registered trademark or commodity is the principal activity conducted therein.

6.2.9 E.7.073a— Signs Permitted in Any B3 and B5 Districts.~~District~~

One sign permitted in Sections 6.2.8 Subsection D above by Sections 7.06 and 7.073 may be a bracket sign meeting the following dimensional requirements: a) no less than 8 feet clearance from ground level to bottom of the sign, b) no more than 15 feet high from ground level to top of the sign, c) the square footage of the sign shall be no larger than 12 squaresq feet or the number of feet equal to half the façade length of the establishment on which the sign hangs, whichever is less, and d) the sign shall project no more than 50 inches from the face of the building. The area of the sign shall be calculated based on its maximum height and width. Bracket signs shall not be hung over a vehicularveehicular way, shall not extend above the building, and shall not extend beyond the curb line.

6.2.9 F.7.074 - Signs Permitted in Any B2A or B4 Districts District

(1)a: One permanent wall sign for each street or parking lot frontage of each establishment not to exceed ~~40forty (40)~~ square feet and to conform to the "wall sign" provisions of this Section 6.2Article 7.

(2) b: One standing sign which does not exceed ~~24twenty-four (24)~~ square feet in lieu of the wall signs permitted in Subsection (F)(1) above.7.074a. If a standing sign is provided, there may be one permanent wall sign which does not exceed ~~20%twenty (20) percent~~ of the area of the standing sign.

(3)e: On property at any corner formed by intersecting streets, no free-standing sign shall be erected within that triangular area between the property lines and a diagonal line joining points on the lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve at such corner and a diagonal line joining points on such tangents 25 feet from the point of their intersection.

(4) d: Where a single lot is occupied by more than one ~~(1)~~ establishment, whether in the same structure or not, there shall not be more than one ~~(1)~~ free-standing sign for each lot street frontage.

(5) At autoe.At gasoline service stations, one ~~(1)~~ standard sign is allowed for each gasoline pump, bearing in usual size according to state regulations, and usual form, the name and/or type of gasoline and the price thereof.

(6)f: If containing a registered trademark or portraying a commodity for sale, such trademark or commodity shall not occupy more than ~~10% ten (10) percent~~ of any sign area, unless said registered trademark or commodity is the principal activity conducted therein.

6.2.9 G.7.075 - Signs Permitted in MU Districts

~~a. One~~ (1) One free-standing sign provided such sign is not more than four ~~(4)~~ feet by six ~~(6)~~ feet or ~~24~~twenty-four ~~(24)~~ square feet in area and the top of the sign is not over ~~12~~twelve ~~(12)~~ feet above the ground.

~~(2) One~~ ~~b. One~~ ~~(1)~~ wall or standing sign for identification of each building provided the surface area of such sign of one ~~(1)~~ side shall not be more than ~~10~~ten ~~(10)~~ square feet nor, if a standing sign, more than six ~~(6)~~ feet above ground.

~~(3) e.~~ Directional signs that point out parking lots and specific services provided they are not larger than one ~~(1)~~ foot by three ~~(3)~~ feet and provided the top of the sign is not more than four ~~(4)~~ feet above the ground.

6.2.9 H.7.076- Signs Permitted in OS Districts

(1)a: One unlighted permanent freestanding sign for any permitted use, not to exceed four~~(4)~~ square feet in area and set back not more than 15~~fifteen~~(15) feet from the front property line.

(2)b: On properties which provide space and amenities for recreational, educational and organized social activities, a kiosk not to exceed 24~~twenty-four~~ square feet may be substituted for a freestanding sign. Such a kiosk is intended to serve community needs; no material in the nature of commercial advertisement shall be a part of the kiosk with the exception of sponsorship acknowledgement which may not exceed 3% of the area of the kiosk.

6.2.10. Section 7.08 -- Sign Permits and Maintenance

A. Applications for a sign permit a. All persons desiring to erect, install, place, construct, alter, move, or maintain a sign shall be submitted apply to the Building Inspector on forms provided by the Inspector of Buildings for a permit. A copy of the Application shall be submitted to the Department of Inspectional Services Planning and Community Development.

B. Upon receipt of a complete application for a sign permit, the Building Inspector shall transmit a copy to the Director of Planning and Community Development for review and comment. The Director shall submit an advisory report with recommendations as to location, size, color, and lighting among others to the Building Inspector within 14 days of receipt of the application. Failure to submit a report within the 14-day period shall constitute no objection to the permit by the Department.

b. All applications for sign permits shall include at a minimum a drawing to scale indicating the following:

1. the proposed sign;
2. all existing signs maintained on the premises;
3. the lot plan and building facade indicating location of the proposed sign;
4. specifications for its construction, lighting and wiring.

C. A sign permit shall be issued only if the sign complies or will comply with all applicable provisions of this Bylaw.

All drawings shall be of sufficient clarity to show the extent of the work.

Upon receipt of a complete application for a sign permit, the Inspector of Buildings shall transmit a complete copy of the application to the Director of Planning and Community Development for his review and comment or that of his designee. The Director or his designee shall submit an advisory report with recommendations as to location, size, color, and lighting among others to the Inspector of Buildings within fourteen (14) days of receipt of the application. Failure to submit a report within the time period shall constitute approval of the permit by the Department.

e. Such permit shall be issued only if the sign complies or will comply with all applicable provisions of this bylaw.

D. The Building Inspector d. The Inspector of Buildings is authorized to order the repair or removal of any sign and its supporting structure which in the judgment of the Building Inspector is dangerous Inspector of Buildings is dangerous, or in disrepair, or which is erected or maintained contrary to this Bylaw bylaw.

6.2.11. Special Permits

Section 7.09 – Special Permits

A. Under certain circumstances~~In particular instances~~, the Board of Appeals or Arlington Redevelopment Board, as applicable, may issue a special permit to allow ZBA, ~~or in cases subject to Section 11.06, the ARB may permit~~ more than the number of signs permitted under this Section 6.2, hereinabove permitted or signs of a greater size or in a location other than that specified in this Section 6.2 if hereinabove specified, ~~if it is determined that~~ the architecture of the building, the location of the building relative with reference to the street, or the nature of the use being made of the building is such that an additional sign or signs of a larger size should be permitted in the public interest. In granting a sign special permitsuch permission, the Board of Appeals or Arlington Redevelopment Board, as applicable, ~~ZBA or ARB as appropriate~~ shall specify the size and location of the sign or signs and impose ~~such~~ other terms and restrictions as it may deem to be in the public interest. However, in no case shall any sign permitted exceed a maximum of four ~~(4)~~ feet times the linear face of the building front.

B. Submission requirements and procedures for a sign special permit shall be in accordance with Section 3.4 of this Bylaw and the rules and regulations of Board of Appeals or Arlington Redevelopment Board, as applicable.

~~Any applicant under this provision shall provide information required in Section 7.08 above, in addition to specific information in the form of perspectives, renderings, photographs, models or other representations sufficient to show the nature of the proposed sign and its effect on the immediate surroundings. Prior to the granting of a special permit under this provision, the ZBA shall receive comments on the sign from the Arlington Redevelopment Board and/or the Department of Planning and Community Development, and if subject to ARB approval, the ARB shall not act until it receives comment from the Department of Planning and Community Development.~~

6.2.12. Nonconforming Accessory Signs

Section 7.10 - Nonconformance of Accessory Signs

Accessory signs or other advertising devices legally erected before the adoption of this Bylaw may continue to be maintained, provided, however, that:

~~Accessory signs or other advertising devices legally erected before the adoption of this bylaw may continue to be maintained, provided, however, that no such sign or other advertising device shall be permitted if it is, after the adoption of this bylaw, enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this bylaw; and provided further that any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this bylaw. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which:~~

A. No sign or other advertising device shall be permitted if it is, after the adoption of this Bylaw, enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this Bylaw; and
~~a. shall have been abandoned;~~

B. Any sign or other advertising device that has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost of the sign or other advertising device at the time of the restoration, shall not be repaired or rebuilt or altered except to conform to the requirements of this bylaw. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which:

(1) Shall have been abandoned;

(2) Advertises ~~b. advertises~~ or calls attention to any products, businesses, or activities which are no longer sold or carried on at the ~~particular~~ premises; or

(3) Shall ~~e. shall~~ not have been repaired or properly maintained within ~~30~~^{thirty} (30) days after notice to that effect has been given by the Inspector of Buildings.

6.2.13. Nonaccessory Signs
~~Section 7.11 - Nonaccessory Signs~~

~~A. No person, firm, association, or corporation shall erect, display or maintain, within the limits of the town, a billboard, sign, or other outdoor advertising device, except those exempted by G.L. 93, §§ 30 and 32 ~~Section 30 and 32 of Chapter 93 of the General Laws, or by any additions to, or amendments of said sections.~~~~

B. No billboard, sign or other advertising device shall be erected, displayed, or maintained in any block in which one-half of the buildings on both sides of the street are used exclusively for residential purposes; except that this provision shall not apply if the written consent of the owners of the majority of the frontage on both sides of the street in such block is first obtained and is filed with the Division of Highways of the Department of Public Works of the Commonwealth of Massachusetts, together with the application for a Permit for such billboard, sign or other advertising device.

C. Not more than one nonaccessory sign shall be permitted on each lot. No nonaccessory sign shall be erected, constructed or maintained within 50 feet of another nonaccessory sign, unless said nonaccessory signs are on one structure and placed back to back.

D. No nonaccessory signs shall be erected in any R ~~District~~ district and, except as specifically exempt by the applicable regulations of the Massachusetts Board of Outdoor Advertising, no nonaccessory sign shall be erected in any B or I district:

(1) On the premises of or within 300 feet of, a district, site, building, structure or object which is listed ~~is listed~~ in the National Register of Historic Places in accordance with P. L. 89-665, 805.915 (1966) as ~~now in force or hereinafter~~ amended;

(2) On the premises of or within 300 feet of any church, chapel, synagogue, school, public playground, hospital, municipal building (including without limitation town hall, fire and police stations and public library buildings, MBTA station), museum, public park or reservation, a permanently erected memorial to veterans or monument;

(3) Within 200 feet of the 100-year floodline of the Alewife Brook, Mystic Lake, Mystic River, Mill Brook, Spy Pond or any wetlands shown on the floodplain and wetland overlay of the Zoning Map ~~zoning map~~ of the Town of Arlington;

(4) Within a radius of one hundred 150 ~~fifty (150)~~ feet from the point where the centerlines of two or more public ways intersect;

(5) Exceeding a height of 30 feet measured from the ground surface;

(6) Upon the roof of any building;

(7) Exceeding an area of 300 ~~three hundred (300)~~ square feet or one-half ~~(1/2)~~ square foot per foot of lot frontage or, in the case of wall signs, of one-sixth of the area of said wall, whichever

is smaller;

(8) Containing a sign face with a vertical dimension ~~more than 12 in excess of twelve (12)~~ feet;

(9) Nearer than ~~100 one hundred (100)~~ feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of eight ~~(8)~~ feet or a height of four ~~(4)~~ feet;

(10) Nearer than ~~300 three hundred (300)~~ feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of ~~25 twenty-five (25)~~ feet or a height of ~~12 twelve (12)~~ feet; or

(11) In any event if such billboard, sign or other advertising device shall exceed a length of ~~50 feet or a height of 12 fifty (50) feet or height of twelve (12)~~ feet; except that the Selectmen may permit the erection of billboards, signs or other advertising devices which do not exceed ~~40 forty (40)~~ feet in length and ~~15 fifteen (15)~~ feet in ~~height if not height not~~ nearer than ~~300 three hundred (300)~~ feet to the boundary line of any public way.

E. No billboard, sign or other advertising device shall be erected, displayed or maintained ~~without a permit from until a Permit therefor has been issued by~~ the Division of Highways of the Department of Public Works pursuant to the following provisions: Upon receipt from ~~the said~~ Division of a notice that application for a permit to erect, display or maintain a billboard, sign or other advertising device within the limits of the town has been received by it, the Board of Selectmen shall hold a public hearing on ~~the~~ said application in the town, notice of which shall be given by posting the same in three or more public places in ~~the~~ said town at least one week before the date of ~~the~~ such hearing. A written statement as to the decision of the Board results thereof shall be forwarded to the Division within 30 days from the date of notice of the town that an application for a permit had been made. containing, Ineontaining, in the event of a disapproval of ~~the~~ such application, the Board shall provide reasons for the disapproval within 30 reasons therefor, within thirty (30) days from the date of notice of the town that an application for such a permit had been made.

F. This Bylaw shall not apply to signs or other devices erected and maintained in conformity with law, which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertising the property itself or any part thereof as for sale or to let and which contain no other advertising matter and provided further that this Bylaw shall not apply to billboards, signs or other advertising devices legally maintained, at the time of its approval by the Attorney-General, until one year from the first day of July following such approval. _

~~Section 10.05 - Sign Permit Required~~

~~No sign in any "B," "MU," "PUD," "T," "OS", or "I" District or sign requiring approval of the ZBA in any "R" District shall be erected on the exterior of any building or on any lot unless a sign permit signed by the Inspector of Buildings has been granted to the owner or occupant of such land or building.~~

~~An application for a sign permit shall be accompanied by a plan, accurately drawn, showing the actual shape, dimensions and wording of the sign, and showing the location of the sign on the building or lot, and by such other information as the Inspector of Buildings may require. A record of all applications, plans, and permits shall be kept on file by the Inspector of Buildings. The Inspector of Buildings shall take action on an application for a permit, either granting the permit or disapproving the application, within fourteen days of receipt of the application, or if the lot or building upon which the sign is to be erected is waiting approval of a building permit as required by Section 10.02 of this Bylaw, then action on such sign permit shall be taken within fourteen days after approval or denial of the building permit application.~~

Section 7. Special Permits

~~7.1 Section 11.03~~ - Removal of Sand, Gravel, Quarry or Other Earth Materials

No sod, loam, sand, gravel or quarry stone shall be removed for sale (except when incidental to and in conformity with the construction of a building for which a permit has been issued in accordance with the State Building Code~~Building Laws~~), except by permission of Board of Appeals~~the ZBA~~.

Section 08. Special Regulations

8.1 Nonconforming Uses and Structures - 8.1.1 Applicability
Section 4.03 - Existing Buildings and Land

A. Except as provided in this Section, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw (December 14, 2017). However, this Bylaw shall apply to any change or substantial extension of such use, or to a building permit or special permit issued after the first notice of said public hearing, or to any reconstruction, extension, or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension, or a structural change to a single family or two-family residential structure does not increase the nonconforming nature of said structure. Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood. It is the purpose of this Bylaw to discourage the perpetuity of nonconforming uses and structures whenever possible. This Bylaw shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is legally used at the time of adoption of this Bylaw, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent.

~~Section 9.01 - Nonconformity by Initial Enactment or Amendment. The provisions of this section apply to actions in connection with noneonforming uses, structures and lots as created by the initial enactment of this Bylaw or by any subsequent amendment. It is the purpose of this Bylaw to discourage the perpetuity of noneonforming uses whenever possible. The lawful use of any building or land existing at the time of the enactment of this Bylaw may be continued, except as otherwise provided.~~

8.1.1

~~Section 10.03 - Previously Approved Permits~~

~~B. Construction~~ ~~The status of previously approved permits shall be as determined by the Zoning Act, Section 6. The construction~~ or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw ~~amendment of the ordinance or bylaw~~ unless the use or construction is commenced within a period of not more than ~~twelve~~six months after the issuance of the permit and in any case~~cases~~ involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

8.1.2. Nonconforming Uses

Unless the Board of Appeals has made the finding provided for in G.L. c. 40A, § 6 and Section 8.1.1 above:

8.1.2 A9.02a. Any nonconforming use, except for agriculture, horticulture, or floriculture, of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be extended.

~~8.1.2 B9.05 a. Any nonconforming principal use of a structure shall not be extended. However, any nonconforming use of structure structure may be changed to another nonconforming use by special permitSpecial Permit provided the Board of Appeals finds that the new use is not a substantially different use and not more detrimental to the neighborhood than the existing use. as determined by the ZBA.~~

~~9.02 b. Any nonconforming principal use of a structure shall not be extended.~~

~~8.1.2 C9.02 e.~~ Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of ~~40% forty (40) percent~~ of the floor area of the existing structure.

~~D. 9.05 b.~~ Any nonconforming use which has been once changed to a permitted use shall not again be changed to another nonconforming- use.

8.1.3 Nonconforming Single-Family or Two-Family Dwellings
Section 9.02 - Extension and Alteration

A. Alteration, reconstruction, extension, or structural change to a single or two-family residential structure d. A single or two-family residential structure may be altered and the conforming use extended throughout the altered portion provided that the resultant alteration does not increase the nonconforming nature of the structure. An alteration that is completely within the existing foundation walls does not shall be deemed not to increase the nonconforming nature of said structure. the structure.

B. No alteration, reconstruction, extension, or structural change to a single or two-family residential structure that increases the nonconforming nature of said structure shall be permitted unless there is a finding by the Board of Appeals that the proposed alteration, reconstruction, extension, or structural change will not be substantially more detrimental to the neighborhood.

C. The extension of an exterior wall of a single-family or two-family residential structure along a line at the same nonconforming distance within a required setback may be allowed providing that the extension creates no new nonconformities, nor increases any open space nonconformities, and that no such extension shall be permitted unless there is a finding by the Special Permit Granting Authorityspecial permit granting authority that the extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming dwellingstructure. In making such a finding, the Special Permit Granting Authorityspecial permit granting authority shall assess the dimensions and proposed setback of the alteration in relationship to abutting structures and uses.

8.1.4 Nonconforming Structures Other Than Single-Family or Two-Family Dwellings

Except as provided in Section 8.1.8 below, the following shall apply to nonconforming structures other than single-family or two-family dwellings.

~~8.1.4 A9.02-d~~. Any nonconforming structure may be altered and the conforming use extended throughout the altered portion, provided -that any ~~resultingresultant~~ alteration shall not cause the structure to further violate the dimensional and density regulations of the district in which it is located.

8.1.4

~~Section 9.04 - Reduction or Increase~~

~~Bb.~~ No building area or floor area, where already nonconforming, shall be increased so as to ~~create a~~be in greater non-conformity.

~~C. Any lawful~~9.04 c. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

~~8.1.4. D. Section 9.08 - Moving.~~ Any nonconforming structure shall not be ~~moved~~ removed to any other location on the lot or any other lot unless every portion of ~~the~~ such structure, the use thereof, and the lot shall be conforming.

~~E. Section 9.09 - Unsafe Structure.~~ Except as covered under ~~Section 8.1.7~~ Sections 9.06 and 9.07, any structure determined to be unsafe may be restored to a safe condition, provided ~~the~~ such work on any nonconforming structure shall be completed within one ~~(1)~~ year of the determination that the structure is unsafe and ~~the restoration work it~~ shall not place the structure in greater nonconformity. A structure may be exempted from this provision by a special permit ~~from the Board of Appeals or, granted by the ZBA, or~~ in cases subject to Environmental Design Review in Section 3.4 ~~Section 11.06~~, the Arlington Redevelopment Board. ARB.

8.1.5 Unsafe Structure

Section 9.09 - Unsafe Structure

Except as covered under Section 8.1.7~~Sections 9.06 and 9.07~~, any structure determined to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall be completed within one ~~(1)~~ year of the determination that the structure is unsafe and it shall not place the structure in greater nonconformity. A structure may be exempted from this provision by a special permit granted by the Board of Appeals or ZBA~~, or~~ in cases subject to Environmental Design Review, Section 3.4~~Section 11.06~~, the Arlington Redevelopment Board~~ARB~~.

8.1.6 ~~Section 9.04~~ -- Reduction or Increase

Aa. Any lot, or open space on a lot, including yards and setbacks shall not be reduced or changed in area or shape so that the lot, open space, yard, or setback is made nonconforming or more nonconforming unless a special permit has been granted under Section 8.1.3 or Section 8.1.4(A). ~~However, this section~~the Special Permit Granting Authority has permitted an alteration to the property pursuant to Section 9.02 d. ~~This section, however,~~ shall not apply in the case of a lot a portion of which is taken for a public purpose.

B. ~~Section 9.05 e.~~ Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

C9.04 e. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

8.1.7 Restoration, Abandonment, or Non-Use

Section 9.06 – Restoration

Aa. Any ~~nonconforming structure or any structure occupied by a nonconforming use, which is~~ damaged by fire or other natural cause, may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original nonconforming use or a conforming use. If such restoration is not started within one year of the cause of the damage, the repaired structure shall not be used except for use of a conforming use.

~~b. If restoration under a. above is not started within one (1) year of the cause of the damage, the repaired structure shall not be used except for a conforming use.~~

B. Section 9.07 – Abandonment. Any nonconforming use of a conforming structure and lot which has been abandoned, demolished without reconstruction, or not used for a continuous period of two years, shall lose its protected status and be subject to all provisions of this Bylaw; however, the Board of Appeals may grant a special permit to authorize the reestablishment of a nonconforming use or structure where such reestablishment shall not result in substantial detriment to the neighborhood. The (2) years or more shall not be used again except for a conforming use. For agriculture, horticulture or floriculture, the abandonment period for agriculture, horticulture, or floriculture shall be five (5) years.

C. A nonconforming use shall be considered abandoned when the premises have been devoted to another use, or when the characteristic equipment and the furnishing of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within two ~~(2)~~ years unless other facts show intention to resume the nonconforming use.

8.1.8 ~~Section 9.10 - Special Permit Uses:~~ Repair, Reconstruction, Extension, Addition-

Special ~~Permit~~permit uses are a special class of uses not existing as of right. Except as hereinafter provided, whenever a structure or lot is occupied by a use such as would require a special permit pursuant to Section 3.35.04, and Section 3.411.06 when applicable, if such activity were to commence as a new use thereon, then any reconstruction, alteration, addition or extension of such use or of an existing or destroyed structure shall be undertaken only pursuant to special permit(s) issued therefore, except when or for:

A1. A damaged or unsafe structure occupied by a use under previously granted special permit(s) may be repaired or reconstructed for such use in accordance with the same terms and conditions, if any, attached to such permit(s).

B2. A damaged or unsafe structure occupied by a use not under previously granted special permit(s) may be repaired or reconstructed for such use without such permit(s) provided that the cost of such repair or construction does not exceed 50%~~fifty (50%) percent~~ of the physical replacement value of the previously existing structure(s).

C3. Interior renovations are done without any addition to the gross floor area of the existing structure(s).

D4. Reconstruction, alteration, ~~alteration~~, or additions -to a structure occupied ~~occupied~~-by a use under ~~under~~-previously granted special permit(s) for such activity provided that the addition does not exceed the lesser of 500 square feet or 25%~~twenty-five (25%) percent~~ of the gross floor area in existing structure(s) and that no such activity violates any condition(s) attached to such permit(s).

None of the foregoing exceptions shall exempt any construction undertaken thereunder from compliance with all dimensional, density, parking, landscaping or other provisions of this bylaw.

Section 9.03 -- Residential Lot of Record

~~Any lot lawfully laid out by plan or deed duly recorded which complies (at the time of recording) with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaw then in effect, may be built upon for residential use provided it has a minimum area of five thousand (5,000) square feet, with a minimum front footage of fifty (50) feet, and is otherwise in accordance with the provisions of the fourth paragraph of Section 6 of the Zoning Act.~~

8.2 Section 11.08 -- Affordable Housing Requirements - 8.2.1 Purpose

The purpose of this Section 8.2 is to:

a. PURPOSE:

A. Promote ~~The purpose of these requirements is to promote~~ the public health, safety and welfare by encouraging the expansion and ~~improvement~~upgrading of the ~~town~~Town's housing stock, especially its affordable housing; ~~to provide for a full range of housing choices for households of all incomes, ages, and sizes; to minimize the displacement of lower income Arlington residents; and to increase the production of affordable housing to meet employment needs.~~

B. Provide for a full range of housing choices for households of all incomes, ages, and sizes;

C. Minimize the displacement of lower-income Arlington residents; and

D. Increase the production of affordable housing to meet employment needs.

8.2.2 Applicability

11.08 b. APPLICATION:

The provisions of this Section ~~8.2~~11.08 shall apply to all new residential development ~~Residential projects, including Phased or Segmented Developments,~~ with six or more units~~Units~~ subject to Section 3.4, Environmental Design Review, comprised of any or all of the following ~~uses: pursuant to Section 11.06(b).~~

Single-family detached dwelling

Two-family dwelling

Duplex dwelling

Three-family dwelling

Townhouse structure

Apartment building

Apartment conversion

Single-room occupancy building

11.08 e. Phased or Segmented Project:

Any residential development of the uses listed above involving ~~A project on~~ one lot, or two or more adjoining lots in common ownership or common control, for which special permits or building permits are sought within a two-year period~~period of two years~~ from the first date of special permit application for any special or building permit application shall comply with the provisions of this Section 8.2~~permits for the Project.~~

8.2.3 Requirements

11.08 d. REQUIREMENTS

A. In any development subject to this Section 8.2, 15%1. Fifteen percent (15%) of the dwelling units shall be affordable units as defined in Section 2 of this Bylaw. For purposes of this Section 8.2., each room for renter occupancy in a single-room occupancy building Residential Units in new Projects shall be deemed a dwelling unitAffordable Units. In determining the total number of affordable unitsAffordable Units required, calculation of a fractional unit of 0.5 or more shall be rounded up to the next whole number. regarded as a whole unit.

B. The sale price or monthly rent of each affordable unit2. Affordable Units' prices shall be calculated such that household size matches the number of bedrooms plus one.

C. Affordable units3. Affordable Units shall conform to all requirements for inclusion in the Chapter 40B on the state's Subsidized Housing Inventory.

4. Affordable Units shall be located on the Project site.

D. Affordable units shall be included in the locus of the development. (a) In exceptional circumstances, the Arlington Redevelopment Board the ARB may allow the developer to make a financial contribution to the Affordable Housing Trust Fund in lieu of providing affordable unitsAffordable Units, if it finds that:

8.2.3. D.

~~11.08(d)(4)(a)~~

(~~1~~i) it is in the best interest of the Town to do so, or

(~~2~~ii) the provision of ~~affordable units~~Affordable Units would result in a hardship that renders the development financially~~such as rendering the Project economically~~ infeasible.

(~~b~~) The financial contribution to the Affordable Housing Trust Fund for each ~~affordable unit~~Unit shall be equal to the difference between the full and fair cash ~~fair~~-market value of a market-rate unit and the maximum affordable price of an ~~affordable unit~~Affordable Unit, and shall be payable in full prior to issuance of a final occupancy permit.

E. Affordable units(~~e~~) ~~Affordable Units~~ shall be dispersed throughout the ~~development~~project and shall be comparable to market-rate units in terms of location, quality and character, room size, number of rooms, number of bedrooms and external appearance.

8.2.4 Incentive

11.08 e. INCENTIVE

~~1. Notwithstanding the special permit requirement under Section 6.1.10, Location of Parking Spaces, and 6.1.11, Parking and Loading Space Standards; in Section 8.12(a)(10),~~

~~A. The~~ applicant shall have the option to reduce the number of spaces required in Section 6.1.4, the Table of Off-Street Parking Regulations by up to 10 percent.

~~B. In the 2. Notwithstanding the special permit requirements in Section 8.12 (a)(10), in the case of a single-room occupancy building or dormitory dwelling, dormitory, boarding house or lodging house, where more than 50% of the units are affordable to households earning no more than 60% of Area Median Income, the median income, according to Section 11.08(e), DEFINITIONS, "Affordable Units", the number of parking spaces for the affordable units may be reduced to 50% of the requirements, by special permit, where it can be shown that the parking provided will be sufficient for both residents and employees.~~

8.2.5 Administration

11.08 f. ADMINISTRATION

A1. The Arlington Redevelopment Board shall administer ARB shall be charged with the administration of this Section 8.211.08 and may adopt administrative promulgate rules and regulations to implement its provisions.

B2. Occupancy permits may be issued for market-fair market-rate units prior to the end of construction of the entire development project provided that occupancy permits for affordable units Affordable Units are issued simultaneously on a prorata basis pro-rata basis according to the formula set forth in section d, paragraph 1.

C3. Sales prices, resale prices, initial rents and rent increases for affordable units Affordable Units shall be restricted to ensure long-term affordability to eligible households, to the extent legally possible.

D4. The affordable units Affordable Units in Projects shall be subject to a marketing plan approved by the Director of Planning and Community Development Housing, consistent with federal and state fair housing Fair Housing laws and the Town of Arlington's approved Affirmatively Furthering Fair Housing plan and policies, on file in the Department of Planning and Community Development policy.

E. To the extent not inconsistent with the provisions of G.L. c.183A, condominium 5- Condominium documentation shall provide the owners of the affordable units Affordable Units with voting rights sufficient to ensure an effective role in condominium decision-making.

6- All legal documentation shall be reviewed by and subject to review and approval by Town Counsel or its designee approval of legal counsel to the Town.

~~Section 11.08 -- e. DEFINITIONS:~~

~~Project: Developments subject to the requirements of Section 11.08.~~

~~Residential: Use items 1.01a, 1.02a, 1.03, 1.04, 1.05, 1.07 and 1.10 listed in Table 5.04.~~

~~Units: Dwelling Units or Lodging Units.~~

~~8.3 Section 11.10~~—TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS - ~~8.3Section 11.10~~.1 Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, “Regulation of the Use and Distribution of Marijuana Not Medically Prescribed”). Effective December 15, 2016, the law allowed certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94 are not otherwise contemplated or addressed under the present Zoning Bylaw. The regulations to be promulgated by the Cannabis Control Commission may provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the Town may further restrict commercial sales of recreational marijuana by local ballot questions. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, potentially necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

8.3.211.10.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments. The moratorium shall be in effect through June 30, 2018, or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of non-medical recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and related uses, and shall consider adopting new Zoning Bylaws in response to these new issues.

8.3.311.10.4 Severability

The provisions of this by-law 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.²²

Section 11.09—Temporary Prohibition of Medical Marijuana Treatment Centers

a. PURPOSE:

By vote at the state election in November 2012, the voters of the Commonwealth adopted a law permitting qualifying individuals to obtain and use marijuana to address medical issues without threat of state criminal prosecution. This law, Chapter 369 of the Acts of 2012, went into effect on January 1, 2013. The de-criminalization of marijuana under this law raises novel and complex legal, planning, health, and safety issues that the Town needs time to consider in order to allow for its orderly implementation with appropriate mitigation of potential negative consequences. Under the law, the state Department of Public Health will issue regulations governing, among other things, the registration and regulation of local dispensaries of marijuana, marijuana products, and related supplies. The siting and operation of these dispensaries is of specific municipal interest and, currently, the content of the Department of Public Health regulations is unknown. The temporary prohibition of marijuana dispensaries under this section will enable the Town to thoroughly and responsibly consider location and other reasonable restrictions on the operation of any marijuana dispensaries that may be opened within the Town, consistent with the law and the regulatory approach to be adopted by the state.

b. DEFINITIONS:

Medical Marijuana Treatment Center: is defined as it is in Chapter 369 of the Acts of 2012, for purposes of this section

Medical Marijuana Planning Period: is the period of the temporary prohibition set forth herein

c. TEMPORARY PROHIBITION:

For the reasons set forth above and notwithstanding any other provision of this Zoning Bylaw or any general or special law to the contrary, no land or buildings shall be used within the Town of Arlington for operation of a Medical Marijuana Treatment Center before the dissolution of the 2014 Annual Town Meeting. During this Medical Marijuana Planning Period, the Town will: (i) evaluate regulations and other guidance promulgated by the state Department of Public Health concerning Medical Marijuana Treatment Centers and related uses; (ii) undertake a planning process to address the potential effects that the presence of Medical Marijuana Treatment Centers in the Town would have upon the general health, safety, and welfare as well as on other property uses; (iii) consider amending these Zoning Bylaws to govern the operation and impact of Medical Marijuana Treatment Centers; and (iv) through its Board of Health, consider the adoption of reasonable health regulations and permitting procedures applicable to Medical Marijuana Treatment Centers consistent with state requirements, rights, and obligations.”