

## **SECTION I**

### **TITLE, AUTHORITY AND PURPOSE**

The purpose of the "Holden Zoning Bylaw" is to encourage the most appropriate use of the land, property and natural resources consistent with the purpose and desire to retain the characteristics of a non-industrialized suburban New England town, offering a variety of living opportunities, planned growth and a broadening tax base. The Holden Zoning Bylaw adopted in 1954 and all subsequent amendments thereto, is hereby amended by striking it out in its entirety and the revised "Holden Zoning Bylaw" hereafter called "this Bylaw" is adopted in its place and stead pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

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### **SECTION II**

#### **DEFINITIONS**

For the purpose of this bylaw certain terms and words shall have the following meaning. Words used in the present tense include the future; the singular number includes the plural, the plural the singular, the words "used" or "occupied" include the words "designed", "arranged", "intended", or "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 Holden Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

**ABANDONMENT:** Any voluntary relinquishment or disclaimer of a use of a lot or structure which is nonconforming or the discontinuation of such use for a period of 2 years or more shall be considered an abandonment and such lot or structure shall not be used again except for a conforming use; for agricultural, horticultural, or floricultural uses on parcels less than five acres the abandonment period shall be for a 5 year period of non-use.

**ACCESSORY SIGN:** Any sign that advertises, or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter.

**ACTIVE FARMLAND:** Property shall be determined to be farmland if vegetable or flower crops, hay, orchards, forest products, cattle, or other are managed for distribution. The land shall be considered active if these activities have occurred within a period of two years prior.

**ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, video and other matter which are characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Section thirty-one of Chapter 272 and which excludes minors by virtue of age.

**ADULT DANCE CLUB:** An establishment that, as its principle form of entertainment, permits a person or persons to perform in a state of nudity as defined in MGL, Ch. 272, Sec. 31.

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**ADULT THEATER:** An enclosed building used for presenting materials distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL, Ch 272, Sec. 31 and which excludes minors by virtue of age.

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

**AQUIFER:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**AQUIFER PROTECTION DISTRICT:** Those land area(s) designated on a map adopted pursuant to this bylaw and provide recharge to an existing or planned public drinking water supply well. The Aquifer Protection District includes all areas designated as Zone I, Zone II and Zone III.

**AWNING SIGN:** A sign attached to or painted directly on a permanent shelter, or a temporary retractable shelter, which is supported entirely from the exterior wall of a building.

**BEDROOM:** Any room in a dwelling unit greater than 100 square feet with the exception of bathrooms, kitchens, hallways and not more than up to four additional rooms designated as the dwelling unit's living room, dining room, family room and library/study. Said family room and library/study must be located on the first floor of the dwelling unit.

**BOARD:** The Board of Appeals of the Town of Holden, Massachusetts.

**BUFFER:** A strip or other area of land in its natural state or planted with screening plants and shrubs and intended to lessen any adverse external effects by or on a subdivision such as noise or visual intrusion.

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

**BUILDING, ACCESSORY:** A detached 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 and not for human habitation.

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**BUILDING UNIT:** A single building, or a portion of a single building, having the principal means of ingress and egress separate and distinct from other portions of the same building.

**CAMPING TRAILER:** A unit used for recreational purposes on other than the storage site.

**CLUSTER RESIDENTIAL DEVELOPMENT:** A cluster residential development shall mean a subdivision to be developed as an entity by a landowner into lots for single family, duplex or townhouse residences where said residences are arranged on lots in one or more groups having area and yard measurements less than the minimum required in Table 2. These clusters or groups shall be separated from adjacent property and other groups of lots by intervening common land.

**CMR:** Code of Massachusetts Regulations.

**COMMON LAND:** A deed restricted or town owned parcel or parcels of land or an area of water, or a combination of land and water within the site of a Cluster Residential Development as provided in Section XI, J. 3. a. (8). d. of this bylaw, designed and intended for the recreational use and enjoyment of the residents of the development and/or the residents of the town, exclusive of rear, side and front yard. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the development and/or the residents of the town.

**COMMON LAND/COMMON OPEN SPACE:** A deed restricted or town-owned parcel or parcels of land or an area of water, or a combination of land and water within the site of an Open Space Residential Development as provided in Chapter 7.1 Section XI,J.3.a.E of this bylaw, designed and intended for the recreational use and enjoyment of the residents of the development and/or the residents of the town, exclusive of rear, side and front yard. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the development and/or the residents of the town.

**COMMUNITY FACILITIES:** Premises owned and operated by a governmental or chartered non-profit organization, but not including fraternal, sports, or similar membership organizations.

**CONDOMINIUM:** A condominium, or condo, is the form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

CONSTRAINED LAND shall include all or any of the following:

- (a) Land within a floodplain as defined by Section XIII.
- (b) Fresh water wetlands, as subject to protection under Mass. General Law Chapter 131, Section 40 (The Wetlands Protection Act) and the Regulations promulgate thereunder (310 Code of Massachusetts Regulations 10.00), as mended or change from time to time.
- (c) Land having slopes in excess of fifteen percent (15%).
- (d) Land previously prohibited from development under a conservation restriction held by the Conservation Commission or a conservation land trust.
- (e) Land otherwise prohibited from development by local or state bylaw, regulation, or statute.
- (f) Land set aside for stormwater treatment.

**COURT:** An unoccupied open space, other than a yard, on the same lot with a building which is bounded on three or more sides by the walls of such building or wall erected in continuance with the building walls. An outer court extends to a street line or opens upon a front, side or rear yard. An inner court is enclosed on all sides by walls of a building.

**DENSITY:** The quotient obtained by dividing the number of dwelling units in a given tract by the gross or net site areas, to yield gross or net density, respectively.

**DEP:** Massachusetts Department of Environmental Protection.

**DEVELOPMENT PLAN:** Any plan for community development adopted by the Planning Board in accordance with the provisions of Massachusetts General Laws, as most recently amended.

**DRIVEWAY:** An open space, located on a lot, not exceeding 24 feet in width for residential purposes and not exceeding 30 feet in width for commercial and industrial purposes.

**DUPLEX:** A single dwelling unit having its own private entrance and sharing only one common sidewall with another dwelling unit of the same type.

**DWELLING UNIT:** One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with, cooking, living, sanitary and sleeping facilities, excluding Mobile Homes and Trailers.

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**DWELLING, MULTI-FAMILY:** A building containing five or more dwelling units, including condominiums and cooperatives.

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

**EXCEPTION:** 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 Board and in accordance with provisions of Section XI.J.

**FAMILY:** A group of persons related by blood, marriage, or legal decree forming a household under one head including parents, children and domestic employees and occupying a dwelling unit as a single non-profit housekeeping unit, or not more than five unrelated persons occupying a dwelling unit as a single non-profit housekeeping unit.

**FLOOD LINE:** The limits of flooding from a particular body of water caused by a storm with a minimum intensity of 5 years or greater as determined and certified by a Registered Professional Engineer with knowledge and experience in drainage by showing evidence of such to the Building Inspector.

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

**FOOTCANDLE** - The unit of illumination when the foot is taken as the unit of length. It is the illumination on a surface over one square foot.

**FOUR FAMILY DWELLING:** A dwelling intended and designed to be occupied by four families living independently in separate dwelling units.

**GLARE:** The unintended or non-purposeful projection of light of such an intensity or duration as to cause a public nuisance or a public hazard, including without limitation, visual interference with drivers or travelers on a public or private way.

**GREENBELT:** A deed-restricted or town-owned parcel or parcels of land or an area of water, or a combination of land and water within the site of a subdivision as provided in the Holden Subdivision Control Regulations, Section V, D, designed and intended as open space.

**GROSS SITE AREA:** The total acreage contained within the boundaries of a given tract.

**GROUNDWATER:** All water beneath the surface of the ground in a saturated zone, including perched groundwater.

**HAZARDOUS MATERIAL:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c.21C and 21E and 310 CMR 30.00.

**HAZARDOUS WASTE:** Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.

**HEIGHT:** The vertical distance from the adjacent ground to the top of the structure of the highest roof beams of a flat roof, the mean level of the highest gable or slope of a hip roof, or the mean level of the top plate and the peak of a gambrel, mansard, or A-frame roof. In determining the height of a building, the mean finished grade contiguous to the building shall be used. In no case shall the height of the peak exceed forty (40) feet as measured from the mean finished grade contiguous to the building.

**HOME OCCUPATION:** An accessory use which by custom has been carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use. Such use shall be carried on by the occupants of the dwelling unit with no more than one nonresident employee, and shall not in any manner change the residential character of the building as provided in Section XI-J-3-c-(3).

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**IDENTIFICATION SIGN:** An accessory sign used only to identify the name, address and title of an individual or family occupying the premises.

**IMPERVIOUS SURFACE:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**INSTRUCTION SIGN:** An accessory sign used only to give instructions or directions to the public regarding rights or means of ingress and egress to or from the property such as "No Trespassing", "Open", "Closed", "No Parking", "Deliveries at Rear", "Park Parallel", "In", "Out", etc.

**INTERIOR PARKING SPACE:** Any Parking Space which does not abut the perimeters of a parking area or building.

**LANDFILL:** A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

**LANDSCAPING BUFFER:** A planting area that includes plant material, shrubs and trees.

**LOADING SPACE:** Each required loading space shall be not less than 10 feet in width 14 feet in height and of such a length that a truck or trailer occupying such a space, shall be located entirely on the lot with the building it is to serve, and shall not extend into the sidewalk or the street.

**LODGING HOUSE:** A house in which lodgings are let (a house other than an inn or hotel).

**LODGING UNIT:** One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, tourist houses, or rooming houses excluding Mobile Homes and Trailers.

**LOT:** An area or parcel of land or any part thereof, in common ownership, designated on a plan filed with the administration of this bylaw by its owner or owners as a separate lot. For purposes of this bylaw, a lot may not have boundaries identical with those recorded in the Worcester District Registry of Deeds. Land under water shall not be counted as land area for zoning purposes.

**LOT AREA:** At least 90% of the lot area required for zoning compliance shall be land other than that under water nine months or more a year, other than any marsh, swamp, or flat bordering on inland waters and other than land within utility transmission easements.



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

**LOT DEPTH:** The mean horizontal distance between the front lot line and the rear lot line.

**LOT FRONTAGE:** The distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

**LOT LINE, FRONT:** The property line dividing a lot from a street (right of way). On a corner lot the owner shall designate one street line as the front lot line.

**LOT LINE, REAR:** The lot line opposite from the front lot lines.

**LOT LINE, SIDE:** Any lot line not a front or rear lot line.

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

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

**LOT, WIDTH:** The width measured along a straight line so placed as to constitute the minimum distance between the side lot lines, upon which no point shall be closer to the street than the required setback, and at least one point of which shall be on the setback line.

**MARIJUANA ESTABLISHMENT:** For purpose of this Bylaw, the term “marijuana establishment” shall refer to recreational or non-medical marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers, or any other type of marijuana-related businesses, but not including registered marijuana dispensaries or medical marijuana treatment centers.

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

M.G.L. Massachusetts General Law.

**MIXED USE DEVELOPMENT:** A combination of (i) residential and (ii) commercial and/or (iii) business office-professional uses on a single parcel of land designed to accommodate the needs of both in regard to landscaping/open space, parking, density and other dimensional requirements and developed in conformance with a coherent, integrated plan.

**NET SITE AREA:** The gross site area minus all road right-of-ways, easements, and other areas not designated as part of a building lot.

**NON-ACCESSORY SIGN:** Any sign which is not an accessory sign, such as a billboard.

**NON-SANITARY WASTEWATER:** Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**OPEN DUMP:** A facility operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a) (b)), or state regulations and criteria for solid waste disposal.

**OPEN SPACE:** An area of land intended to offer recreation opportunities, enhance neighborhood appearance and conserve areas of natural beauty; open space may include common land as defined above.

**OPEN SPACE RESIDENTIAL DEVELOPMENT:** An open space residential development shall mean a subdivision to be developed as an entity by a landowner into lots for single family, duplex or townhouse residences where said residences are arranged on lots in one or more groups having area and yard measurements less than the minimum required in Table 2. These clusters or groups shall be separated from adjacent property and other groups of lots by intervening common land.

**OTHER CONSUMER OR COMMERCIAL SERVICE ESTABLISHMENT:** Any service establishment supplying commodities or performing consumer or commercial services directly to the general public.

**OUTDOOR ADVERTISING BOARD:** The Outdoor Advertising Board of the Commonwealth of Massachusetts or any board or official which may hereafter succeed to its power or functions.

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

**PARKING SPACE:** An off street space having an area of not less than 300 sq. ft. including access and maneuvering space but excluding driveways, whether inside or outside a structure for exclusive use of a parking stall for one motor vehicle and having a width of not less than nine (9) feet.

**PERSON:** Shall include an individual, corporation, society, association, partnership, trust or other entity, public or private.

**PERSONAL SERVICES:** A professional service such as a physician, artisan, teacher, lawyer, engineer, accountant and other similar occupations or services.

**PETROLEUM PRODUCT:** Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils, or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

**PLANNED BUSINESS DEVELOPMENT:** A development of a tract of land in single or consolidated ownership for specified purposes where the uses shall be contained and the development shall be served with one common parking area.

**PORTABLE SIGN:** Any sign which is movable and which is not securely anchored to the ground or to a building or structure. This includes wheeled trailers whose primary function is to carry a sign which can be loaned, rented or leased. It also includes signs on or attached to cars, trucks, buses, or trailers when such vehicles are parked off the premises and there is an intention to advertise a business or direct the public to the establishment.

**POTENTIAL DRINKING WATER SOURCES:** Areas that could provide significant potable water in the future.

**QUARRYING:** The business or occupation of extracting stone from an open excavation. Quarrying does not include the excavation and removal of sand and gravel.

**RECHARGE AREAS:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include DEP approved Zone I, Zone II, or Zone III areas, and includes any wetland or body of surface water surrounded by or adjacent to such areas, together with the watershed of any wetland or body of surface water adjacent to such area.

**RECORDED:** Recorded in the Worcester Registry of Deeds or registered in the Land Court.

**REGISTERED MARIJUANA FACILITY:** A not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers, and preparation of marijuana.

**SEPTAGE:** The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.

**SHIELDED:** As applied to a lighting fixture, this term means a lighting device designed, manufactured or modified such that no light is emitted or projected above the horizontal plane of the lighting device.

**SIGN:** Any structure, device, billboard, placard, painting, drawing, poster, letter, word, model banner pennant, insignia, trade flag or representation used as, or which is in the nature of an advertisement, announcement or direction, or is designed to attract the eye by intermittent or repeated motion or illumination and which is visible from a street. House numbers shall not be deemed to be signs within the meaning of this bylaw.

**SIGN, AREA OF:**

- (a) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting framework or bracing which are incidental to the display itself.

- (b) The area of a sign consisting of individual letters, designs or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.
- (c) In computing the area of signs, both sides of V-shaped signs, but only one side of back-to-back signs, shall be counted.

**SLUDGE:** The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility.

**SOLAR PHOTOVOLTAIC ARRAY FIELD:** Any ground-mounted arrangement of solar photovoltaic panels, the combined surface area of which consist of one half acre or more, exclusive of any land area cleared in order to accommodate such installations.

**SOLID WASTES:** Useless, unwanted or discarded solid materials with insufficient liquid content to be free flowing, including, but not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

**STANDING SIGN:** An accessory sign that is not attached to a building.

**STREET:** A way which is over 24 ft. in right-of-way width which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the Rules and Regulations Governing Subdivision of Land in Holden, Massachusetts, and a way having in the opinion of the Holden Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

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

**STRUCTURE, NONCONFORMING:** A structure lawfully existing at the effective date of this bylaw or any subsequent amendment thereto, which does not conform to one or more provisions of this bylaw.

**TEMPORARY SIGN:** A sign constructed of cloth fabric or other light temporary material with or without a structural frame intended for a limited period of display, including decoration displays for holidays or public demonstrations.

**THREE FAMILY DWELLING:** A dwelling intended and designed to be occupied by three families living independently in separate dwelling units.

**TOWNHOUSE:** A single dwelling unit, having its own private entrance and sharing at least one common side wall, as part of a continuous group of dwelling units.

**TRAILER OR MOBILE HOME:** A trailer or mobile home shall mean any vehicle or object on wheels so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether or not it is so used, whether resting on wheels, jacks, or other foundation and shall include the type of vehicle commonly known as a Mobile Home, which shall be defined to mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters, and being less than 20 feet in width in its completed habitable form, but specifically excluding camping trailers.

**TREATMENT WORKS:** Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**TWO FAMILY DWELLING:** A dwelling intended and designed to be occupied by two families living independently in separate dwelling units.

**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 supplemental 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.

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**USE, NONCONFORMING:** A use lawfully existing at the effective date of this bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this bylaw.

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

**VARIANCE:** Such departure from the terms of this bylaw as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Section XI K herein.

**VERY SMALL QUANTITY GENERATOR:** Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY:** A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c. 21 s.52A.

**WINDOW SIGN:** Any signs painted or placed on the inside of the glass of a window, or any sign situated for window display purposes that is supported away from the glass by means of a floor or counter stand, or ceiling or wall support such as wire or chains.

**WIRELESS COMMUNICATION FACILITIES:** The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio service as defined in Section 704 of the Federal Telecommunications Act of 1996. Included are towers, antennae mounted to towers or other structures, and accessory structures, such as sheds, which are directly required for facility operations.

Not included in this definition are antennae and dishes used solely for residential television and radio reception, antennae and dishes used for commercial or public purposes which are not visible from any neighboring property or public way, and amateur radio facilities used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission provided the tower is not used for commerce.

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

**YARD, FRONT:** A space 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 space, 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 building wall and the rear lot line.

**YARD, SIDE:** An unoccupied space extending for the full length of a building between the nearest building wall and the side lot line.

**ZONE I:** The DEP designated protective radius around a public water system well or well-field, may range from 0 – 400 feet.

**ZONE II:** The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00.

**ZONE III:** The area from which surface water and groundwater drain into Zone II as determined by topography which is commonly coincident with groundwater drainage. Where surface and groundwater drainage are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.



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### SECTION III

#### ESTABLISHMENT OF ZONING DISTRICTS

- A. DIVISION INTO DISTRICTS: The Town of Holden, Massachusetts is hereby divided into ten Zoning Districts to be designated as follows:

FULL NAME	SHORT NAME
Residential - Rural	R-40
Residential - Suburban - 1	R-1
Residential - Suburban - 2	R-2
Residential - Suburban - 3	R-10
Residential - Multi-Family	R-M
Commercial -	C
Business Office - Professional	BO-P
Industrial -	I
Industrial - Quarrying	I-Q
Flood Plain -Village -	V

- B. ZONING MAP: The location and boundaries of the Zoning Districts, other than the Flood Plain District, are hereby established as shown on a map entitled "Zoning Map of Holden, Massachusetts" dated March, 2013 which accompanies and is hereby declared to be a part of this bylaw. For location of Flood Plain District see Section XIII.

- C. BOUNDARIES OF DISTRICTS: Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

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

2. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the scale shown on the Zoning Map.
3. Where a dimensioned boundary coincides within 20 feet or less with a lot line, the boundary shall be construed to be the lot line.
4. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved center-line, at right angles to the curve at the point of intersection.

## **SECTION IV**

### **INTERPRETATION AND APPLICATION**

- A. **INTERPRETATION:** The provisions of this bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety or the general welfare of the Town of Holden, Massachusetts and except for the Zoning Bylaw of the Town of Holden dated 1954 and all amendments thereto, the provisions of this bylaw are not intended to repeal, or in any way impair or interfere with any lawfully adopted bylaw, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any bylaw or other regulations that provision which imposes the greater restriction or the higher standard shall govern.
  
- B. **APPLICATION:** Except as herein provided, or as specifically exempted by the Zoning Enabling Act, the provisions of this bylaw shall apply to the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become non-conforming and any existing non-conforming use, structure, or lot shall not become further non-conforming.

## SECTION V

### USE REGULATIONS

A. APPLICABILITY OF USE REGULATIONS: Except as provided in the Zoning Enabling Act or in this bylaw, no building, structure, or land shall be used except for the purposes permitted in the district as described in this Section. Any use not listed is prohibited.

B. PERMITTED USES: In the following Table of Use Regulations the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted as an exception by special permit in the district, in accordance with Section XI-J, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district.

C. USES SUBJECT TO OTHER REGULATIONS: Uses permitted by right or by special exceptions shall be subject, in addition to use regulations, to all provisions of this bylaw.

D. SPECIAL REGULATIONS GOVERNING MANUFACTURING USES PERMITTED IN THE INDUSTRIAL (I) ZONE AND INDUSTRIAL QUARRYING (I-Q) ZONE. For manufacturing uses permitted in the Industrial (I) Zone and Industrial Quarrying (I-Q) Zone, no person owning, leasing or controlling the operation of any air contamination source, including noise, shall willfully, negligently or through failure to provide necessary equipment or to take necessary precautions permit any emission from said air contaminations which will cause by themselves or in conjunction with other air contaminants a condition of air pollution as defined in the Commonwealth of Massachusetts "Regulations for the Control of Air Pollutions in the Central Massachusetts Pollution Control District".

1. All raw materials, materials and goods in process, finished products, waste materials, equipment, grounds and facilities shall be used, maintained, stored or disposed of so as not to create a nuisance or hazard to the public health or safety of the public.
2. The discharge of liquid wastes shall be made into the public sewer or in a private on lot system subject to the approval of the Massachusetts Department of Public Health.
3. In an Industrial Zone all materials shall be stored within a completely enclosed building or within an outside area completely enclosed by a fence and gates all at least eight feet high and of a suitable material to provide adequate structure strength and sufficient screening.

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4. In an Industrial Quarrying Zone, all materials shall be stored within an outside area completely enclosed by a fence and gates to be not less than five feet in height and to conform to the M.D.P.W. Specifications No. 1047-12.

E. VILLAGE USE REGULATIONS: All uses in a Village shall conform to the regulations as set forth in Section XIV, and in Table I. Use Regulations.

RETIREMENT COMMUNITY: All uses in a Retirement Community shall conform to the regulations as set forth in Section XVIII, and in Table 1. Use Regulations.

F. TABLE OF USE REGULATIONS: See table following which is declared to be a part of this bylaw.

Table 1. USE REGULATIONS

RESIDENTIAL	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
1. One-family detached dwelling	P	P	P	P	P	-	-	-	P	-
2. One-family dwelling for personnel required for the safe operation of a permitted use to reside on the premises thereof	-	-	-	-	-	-	-	P	P	S
3. Two, three and four family dwelling and duplex not in cluster	-	-	-	S	P	-	-	-	-	S
4. Duplex	S(C)*	S(C)*	S(C)*	S(C)*	S(C)*	-	-	-	-	S
5. Townhouse	S(C)*	S(C)*	S(C)*	S(C)*	S(C)*	-	-	-	-	S
6. Multi-family dwelling	-	-	-	-	S	-	S	-	-	S
7. Trailer or Mobile Home (See Sec. XI- J-3-b)	-	-	-	-	-	-	-	-	-	-
8. Storage of Camping Trailers in other than the yard set backs as required in Table 2 of Section VI	P	P	P	P	-	-	-	-	-	S

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9. Accessory residential building (non-commercial) such as toolshed, boathouse, playhouse, shelter for domestic pets, private greenhouses, private swimming pool, private tennis court and private detached garage for non-commercial vehicles	P	P	P	P	P	-	-	-	-	S
10. Cluster Residential Development (Sec. XI-J-3-a)	S	S	S	S	-	-	-	-	-	-
11. Conversion of existing dwelling to 2, 3, and 4 family dwelling, provided that the exterior appearance is not altered with exception of additional entrance, fire escapes or the like	-	-	-	S	P	-	-	-	-	S

RESIDENTIAL	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
12. Conversion of existing dwelling to publicly sponsored multi family dwelling for elderly as defined in Chapter 121B of the General Laws of Massachusetts or to housing sponsored by a non-profit organization and designed specifically for elderly persons under recognized government assisted programs provided that the exterior appearance is not altered with exception of additional entrance fire escapes or the like	-	-	S	S	-	-	-	-	-	S
13. Retirement Community. Allowed in all districts by Special Permit, i.e. (See Section XVIII)	S	S	S	S	S	S	S	S	S	S
14. Mixed Use Development	-	-	-	-	-	S	S	-	-	-

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15. Affordable Housing Development	S	S	S	S	S	-	-	S	S	S
<i>*Special Permit required for these uses may be granted only in connection with Cluster Residential Development Section XI-J-3-a</i>										
<i>Table 1. Use Regulations as applied to Village Districts defines use regulations effective following issuance of the original Village Special Permit and the Certificate of Compliance.</i>										
<b>COMMUNITY FACILITIES</b>										
1. Church or other religious purpose	P	P	P	P	P	P	P	P	P	P
2. Non profit educational purpose which is religious, sectarian, denominational or public.	P	P	P	P	P	P	P	P	P	P
3. Non-profit recreational facility not including a membership club	S	S	S	S	S	-	-	-	-	S
<b>COMMUNITY FACILITIES</b>	<b>R-40</b>	<b>R-1</b>	<b>R-2</b>	<b>R-10</b>	<b>R-M</b>	<b>C</b>	<b>BO-P</b>	<b>I</b>	<b>IQ</b>	<b>V</b>
4. Non-profit country, hunting, fishing, tennis or golf club	S	S	S	S	S	-	-	-	-	S
5. Non-profit day camp or other non-profit camp	S	-	-	-	-	-	-	-	-	-
6. Town building except equipment garage	P	P	P	P	P	P	P	P	P	-
7. Town equipment garage	S	-	-	-	-	S	-	P	P	-
8. Town Cemetery including any crematory therein	P	P	P	P	P	P	P	P	-	-
9. Historical association or society	P	P	P	P	P	P	P	S	S	S
10. Non-profit hospital	P	P	P	P	S	-	-	-	-	-

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11. Public utility except power plant, water filter plant, sewage treatment plant and refuse facility	P	P	P	P	P	P	P	P	P	S
12. Power plant, water filter plant, sewage treatment plant and refuse facility	S	-	-	-	-	-	-	S	S	-
13. Street, bridge, tunnel railroad haul lines	P	P	P	P	P	P	P	P	P	S
14. Essential Services	P	P	P	P	P	P	P	P	P	P
15. Publicly sponsored multi-family dwellings for elderly as defined in Chapter 121B of the General Laws of Massachusetts	-	-	S	S	-	-	-	-	-	S
16. Housing sponsored by non-profit organization and designed specifically for elderly persons under recognized government assisted programs	-	-	S	S	-	-	-	-	-	S
17. Community Antenna television system towers and appurtenant structures operated by the holder of a CATV license issued by the Town of Holden	-	S	S	-	-	-	-	-	-	S



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AGRICULTURAL	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
1. Agricultural horticulture and floriculture except a stand for retail sale	P	P	P	P	P	P	P	P	P	P
2. Year round greenhouse on parcels less than 5 acres	P	S	-	-	-	P	-	-	-	-
3. Stand for wholesale and retail sale of agricultural or farm products	S	S	-	-	-	P	-	-	-	S
4. Temporary (not to exceed erection or use for a period of 3 months in any one year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises	P	S	-	-	-	P	-	-	-	S
5. Raising and keeping of livestock horses and poultry not including the raising of swine or fur animals for commercial use	P	S	-	-	-	-	-	-	-	-
6. Commercial stables, or veterinary hospital in which all animals, fowl or other forms of life are completely enclosed in pens or other structures	S	S	-	-	-	-	-	-	-	-
7. Commercial Forestry	P	P	-	-	-	-	-	-	-	-
8. Commercial kennels in which all animals are completely enclosed in pens or other structures.	S	S	-	-	-	-	-	-	-	-
9. Raising and keeping of four (4) or more dogs three (3) months old or over in a non-commercial kennel.	S	S	S	S	-	-	-	-	-	-

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RETAIL AND SERVICE	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
1. Stores usually selling one or a combination of two or more of the following: dry goods, apparel and accessories, furniture and home furnishing small wares, hardware and food for home preparation	-	-	-	-	-	P	-	-	-	S
2. Restaurant	S	-	-	-	-	S	-	-	-	S
3. Sales by vending machines as a principal use	-	-	-	-	-	P	-	-	-	S
4. Establishments selling new automobiles or new and used automobiles and trucks or antique automobiles, new automobile tires and other accessories, aircraft, boats, motorcycles and trailers	-	-	-	-	-	P	-	-	-	-
5. Hotels and motels	-	-	-	-	-	S	-	-	-	S
6. Lodging House	-	S	S	S	S	S	-	-	-	S
7. Personal service establishments	-	-	-	-	-	P	P	S	-	S
A. THE FOLLOWING CON-SUMER OR COMMERCIAL SERVICE ESTABLISHMENTS: Beauty Salon; Travel Agent; Dog Grooming; Barber Shop; Florist; Baker; Bookstore; Security Service; Security Equipment; Photography Services, Equipment, Supplies; Dry Cleaning; Maintenance Services; Catering; Computer Sales & Service; Health Club; Exercise Facility; Copy Services; Shipping, Faxing, Mailing Services; Dance Instruction; Dental, Medical Laboratory; Office Equipment & Supplies; Employment Agency; Pet Shop; Electrolysis; Hobby & Craft Supplies; Limousine Service; Liquor Store; Locksmith; Pharmacy; Music Instruments &	-	-	-	-	-	P	-	-	-	-

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Instruction; Printing; Publishing; Testing Services; Secretary; Other Office Services; Sporting Goods; Tailor; Tanning Salon; Toys; Typewriter Sales & Service; Upholsterer; Video Rental.										
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RETAIL AND SERVICE	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
B. OTHER CONSUMER OR COMMERCIAL SERVICE ESTABLISHMENT	-	-	-	-	-	S	-	-	-	-
8. Funeral home or mortuary establishment	-	-	-	S	S	P	P	-	-	-
9. Convalescent or nursing home	P	S	S	S	-	-	P	-	-	-
10. Membership Club	S	-	-	-	-	S	-	-	-	S
11. Business Offices	-	-	-	S	S	P	P	S	-	S
12. Home Occupation (See Sec. XI-J-3-c)	S	S	S	S	S	P	P	-	-	S
13. Automobile repair, fuel, automobile service and garages not including uses covered by 15 and 15.a and 15.b below	-	-	-	-	-	S	-	-	-	-
14. Miscellaneous repair service	-	-	-	-	-	P	-	-	-	S
15. Junk yards or the open storage of two or more unregistered motor vehicles, farm vehicles excluded	-	-	-	-	-	-	-	-	-	-
a. Open storage of one unregistered vehicle for six months or less	P	P	P	P	P	P	P	P	P	S
b. Open storage of one unregistered vehicle for more than six months	S	S	S	S	S	S	S	S	S	S
16. Motion picture establishments indoor	-	-	-	-	-	P	-	-	-	S

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17. Other amusement and recreation services	S	S	S	S	S	S	-	-	-	S
18. Communications and television towers	-	-	-	-	-	-	-	-	-	-

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RETAIL AND SERVICE	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
20. Planned business development (see Sec. XI-J-3-d)*	-	-	-	-	-	P	P	P	-	S
21. Commercial Educational purposes	S	S	S	S	S	S	S	-	-	S
22. Banks or Financial Institutions	-	-	-	-	-	P	P	-	-	S
23. Adult Bookstore, Adult Dance Club and Adult Theater	-	-	-	-	-	S	-	S	-	-
*20 Those uses permitted by right in a "C" zone shall be permitted by right in planned business development. Those uses permitted by Special Permit (S) in a "C" zone shall be permitted by Special Permit										
WHOLESALE AND MANUFACTURING										
1. Quarrying (See Sec. X)	-	-	-	-	-	-	-	P	P	-
2. Processing and treating of mixed and quarried raw materials including operations appurtenant to the taking, including washing, grading, drying, sorting, crushing, grinding and milling operations (See Sec. X)	S	-	-	-	-	-	-	-	P	-
3. Excavation and removal of sand and gravel (See Sec. XI J-3-e)	S	S	-	-	-	-	-	S	S	-
4. Construction industry including suppliers	-	-	-	-	-	S	-	P	P	-
5. Manufacturing (See Sec. V-D)	-	-	-	-	-	-	-	P	S	-
6. Railroad yards and railway express service	-	-	-	-	-	S	-	P	-	-
7 Motor freight transportation and warehousing	-	-	-	-	-	-	-	S	S	-

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8. Other transportation service	-	-	-	-	-	S	-	S	S	-
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WHOLESALE AND MANUFACTURING	R-40	R-1	R-2	R-10	R-M	C	BO-P	I	IQ	V
9. Wholesale Trade	-	-	-	-	-	S	-	S	S	S
10. Open storage of construction equipment and structures for storing such equipment provided there is sufficient screening to prevent the sight of such equipment from the street and from the inhabited portion of adjacent property	S	S	-	-	-	S	-	P	P	-
11. Bulk storage tanks	-	-	-	-	-	S	-	S	S	-
12. Solar Photovoltaic Array Field	P	-	-	-	-	-	-	P	P	-
13. Registered Marijuana Facility	-	-	-	-	-	-	-	S	-	-
14. Marijuana Establishment	-	-	-	-	-	-	-	-	-	-

## **SECTION VI**

### **AREA, HEIGHT AND BULK REGULATIONS**

A.      **APPLICABILITY OF AREA, HEIGHT AND BULK REGULATIONS:** The regulation for each district pertaining to minimum lot area, minimum lot width, maximum heights of buildings, maximum building area, minimum usable open space, minimum front yard depth, minimum side yard width, minimum rear yard depth, and minimum residential net floor area shall be as specified in this section and set forth in the Tables of Area Regulations and Height and Bulk Regulations, and subject to the further provisions of this Section. A fence, hedge, wall, other enclosure or flagpole is not regulated except as provided in C, below.

B.      **TABLES OF AREA and HEIGHT and BULK REGULATIONS:** See tables following plus attached notes, which are declared to be part of this bylaw.

C.      **FENCE, WALL or OTHER ENCLOSURES:** A fence, hedge, wall or other enclosures may be maintained on a corner lot, provided that no structure or vegetation shall be over 3-5 ft. in height above the grade of the nearest paved traveled lane of the adjacent street or road. Clear vision shall exist between two points each 25 ft. distant from the intersection of both paved traveled lanes.

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Table 2. AREA REGULATIONS

(No. refer to attached notes)

		Minimum Required Lots			Yards		
District	Use	Area  (sq.ft.)	Lot  Width  (ft.)	Lot  Frontage  (ft.)	Front  (ft.)	Side  (ft.)	Rear  (ft.)
R-40	Any permitted structure or principal use	40,000	100	100	40	25*	20*
R-1	Any permitted structure or principal use	40,000	100	100	30	15*	20*
R-2	Any permitted structure or principal use	30,000	100	100	30	15*	20*
R-10	One family dwelling	10,000	80	64	30	10*	20*
	Two family dwelling	15,000	100	80	30	20*	20*
	Three family dwelling	20,000	100	80	30	20*	20*
	Four family dwelling	25,000	100	80	30	20*	20*
	All other permitted structures or principal use	20,000 plus 5,000 for each unit more than three	100	80	30	20	20
	Accessory Structures	See applicable principal unit area, width, frontage and yard requirements above					
R-M	Any permitted structure or principal use	10,000 plus 5,000 for each unit more than two	100	80	30	15	20
C	Hotel and Motel	10,000 plus 2,000 per unit	150	120	30	15	30
	Any other permitted structure or principal use	10,000	80	64	30	15	15



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BO-P	Any permitted structure or principal use	10,000 plus 3,500 for each residential unit more than two	80	64	30	15	15
I	Any permitted structure or principal use	30,000	200	150	30	25	40
I-Q	Any permitted structure or principal use associated with Quarrying	30,000	150	150	30	25	40
	Single family residential dwelling	60,000	125	125	40	20	30

\* A five (5) foot side yard and rear yard setback applies to sheds with floor areas that do not exceed 200 square feet and are not more than ten (10) feet in height, measured to the ridge of the roof, placed on stone bed, concrete block on grade, or pier foundations.

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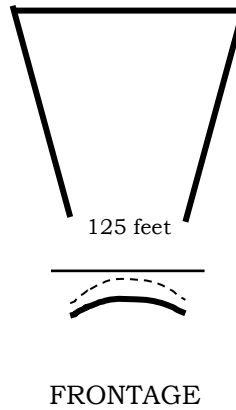
### FOOTNOTES:

1. Except for multi family developments, shopping center industrial complex, community facilities and public utilities, only one principal structure shall be permitted on one lot.
2. 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.
3. At each end of a through lot, there will be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located
4. No building except a boat house shall be within 10 ft. of any watercourse or wetland area or, if subject to flooding, within 10 ft. beyond its flood line to the higher elevation.
5. Projections into required yards or other required open spaces are permitted subject to the following:
  - a. Balcony or bay window, limited in total length to one-half of the length of the building, not more than 2 ft.
  - b. Open terrace or steps or stoop under 4 ft. in height, up to one-half the required yard setback.
  - c. Steps or stoop over 4 ft. in height, window sill, chimney, roof eave, fire escape, fire tower, storm enclosures or similar architectural features not more than 2 ft.
6. In any "R" district any permitted accessory structure shall conform to Table 2 - AREA REGULATIONS, with the exception of the following:
  - a. Accessory structures greater than one hundred twenty five (125) square feet and/or ten (10) feet in height shall not occupy more than forty percent (40%) of the required rear yard, and shall not be less than fifty (50) feet in an R-40 zone and

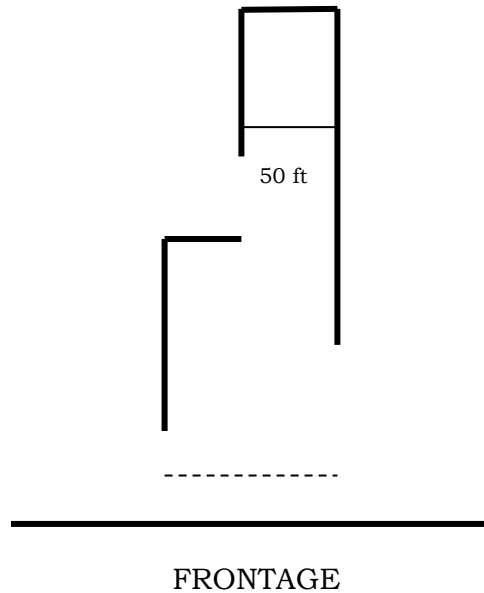
forty (40) feet in an R-1 zone from any street lot line, except on a corner lot if used for garage purposes, then the same distance as the required depth of the front yard for the adjacent lot shall apply. Said accessory structures shall not exceed twenty-five (25) feet in height.

- b. Regarding a temporary stand for the retail sale of agricultural or farm products in accordance with M.G.L. Chapter 40-A, Section 3, the accessory use may be within 6 ft. of the front lot line, shall not be less than 10 ft. from any side or rear lot line, and shall not exceed 25 ft. in height.
  - c. The accessory use of a private swimming pool shall conform to Table 2 - AREA REGULATIONS regarding minimum lot dimension standards. In addition, said private swimming pool, or the entire yard, shall be completely enclosed by a fence at least 4 feet in height having a self-closing gate with a self-locking latch at least 5 feet in reach above ground level.
- 7. In any "R" district any publicly sponsored multi-family dwelling for elderly defined in Chapter 121B of the General Laws of Massachusetts, or any housing sponsored by a non-profit organization and designed specifically for elderly persons under recognized government assisted programs, may exceed the above area requirements provided that the lot contains at least 10,000 square feet plus 3,000 square feet for each residential unit more than one.
  - 8. In the R-2 and R-1 Districts, all new residential construction excluding alterations and extensions to existing single-family structures require a minimum lot area of 40,000 square feet if public sewer connection is unavailable, and said new residential construction will require the installation of a private septic system. This footnote does not apply to any parcel that is included in "Exhibit A" of the document entitled "Town of Holden Enforceable Schedule for Compliance with Title 5, dated July 23, 1996, and on file at the Worcester Registry of Deeds Book 18117, Page 111."
  - 9. A reduced front yard, i.e. building setback may be allowed by Special Permit in Business-Office Professional and Commercial Zones on Main St, Holden, Massachusetts.

10. Any lot which has frontage on a cul-de-sac shall have a minimum lot width of at least 125 feet.



11. No distance, measured in a straight line, between any two points between side lot lines shall be less than 50 feet.



12. Driveways must be entirely located on the lot which it services, a common driveway servicing no more than two lots may be allowed through the approval of a special permit from the Planning Board.

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Table 3. HEIGHT AND BULK REGULATIONS

District	Maximum permitted height(one (l) foot)	Maximum building coverage of lot (covered area as percent of total lot area)	Minimum Residential net floor area per dwelling unit(sq. ft.)
R-40	30	10	768
R-1	30	20	768
R-2	30	25	768
R-10	30	25	768
R-M	35	40	768
C	30	50	Not Required
BO-P	30	50	Not Required
I	30	50	Not Required
I-Q	30	50	Not Required

- I. Any maximum height permitted in this bylaw shall not apply to:
- a. Community facility and public utility structures provided the side and rear yards or setbacks required in the district for the highest permitted principal structure shall be increased 2 feet in width for each foot by which the height of such structures exceeds the height permitted in the district.
  - b. Necessary appurtenant structures such as: church spire, smoke-stack, monument, flagpole, agricultural silo, aerial, airplane hanger, chimney, or parapet wall or any similar appurtenances.
  - c. Special industrial structures such as: a cooling tower and other similar structure where the industrial process requires a greater height.

2. Any minimum net floor area in this Bylaw shall not apply to single family residential buildings or to any publicly-sponsored, multi-family dwellings for elderly as defined in Chapter 121B of the General Laws of Massachusetts or to any housing sponsored by a nonprofit organization and designed specifically for elderly persons under recognized government assisted programs or to conversion of existing dwellings to the above two uses.

## SECTION VII

### SIGNS AND BILLBOARDS

- A. **PURPOSES:** This Section VII of this bylaw is adopted for the regulation and restriction of signs within the town of Holden in order to prevent or minimize damage to the environment, to protect and enhance the visual environment of this town and the safety, convenience and welfare of its residents.
- B. **AUTHORITY AND INTERPRETATION:** This Section VII of this bylaw is adopted as a zoning bylaw pursuant to Chapter 40A of the General Laws. This Section VII is also separately adopted as a general bylaw pursuant to Amendments 50 and 89 of the constitution of the Commonwealth and Chapter 93, 93D, 40 and 43B of the General Laws of Massachusetts and any and all other applicable enabling authority. This Section VII of this bylaw is hereby declared to be remedial and protective, and is to be so construed and interpreted as to secure the beneficial interests and purposes thereof.
- C. **ADMINISTRATION AND ENFORCEMENT**
1. **Enforcement:** The Building Inspector/Commissioner is hereby designated as the Sign Officer and is hereby authorized to enforce this bylaw. The Sign Officer is authorized to order the repair or removal of any sign and its supporting structure which in his judgment is dangerous, or in disrepair or which is erected or maintained contrary to this bylaw. Whenever a Sign Officer is designated, he shall send his name and address to the Outdoor Advertising Board.
  2. **Permits and Fees:** Except for window signs and awning signs referred to in sub-section F and except as provided in sub-section H, no sign shall be erected, altered or enlarged until a permit has been issued by the Sign Officer. Such permit shall be issued only if the sign complies or will comply with all applicable provisions of this bylaw and of any sign regulations adopted by the Board of Selectmen. A schedule of fees for such permits and signs, except those authorized by Subsection H, may be determined from time to time by the Board of Selectmen. The Board of Selectmen are specifically authorized to issue regulations governing the method of issuance and renewal of such permits and further regulations they deem necessary or appropriate in connection with the administration and enforcement of this Section and to ensure the neat appearance and safe condition of such signs, but no such regulation may permit any sign not permitted by this Section VII.



3. Notice of unsafe signs: When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this bylaw, the owner thereof or the person or firm maintaining same, shall upon written notice of the Sign Officer, forthwith in the case of immediate danger and in any case within not more than ten (10) days, make such sign conform to the provisions of the Section VII or shall remove it. If within ten (10) days the written notice is not complied with, the Sign Officer may remove such sign at the expense of the owner or the person or firm maintaining same.
4. Lien upon the property: After removal of the sign by or on behalf of the Sign Officer, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the Sign Officer, together with an additional 10% for inspection and incidental costs. If the amount specified in the notice is not paid within 30 days of the notice, it shall become a lien upon the real property of the sign owner and shall be subject to collection in the same manner as the real estate taxes. The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon, unless facts to the contrary are brought to the attention of the Sign Officer.
5. Application information: Applications for sign permits shall be filed with the Building Inspector/Commissioner and shall be accompanied by sketches showing the exact location of the proposed billboard, signs or other advertising devices. Said applications and sketches are to be made on forms furnished by the Building Department.
6. Photo required: The owner of an unregistered, erected sign must submit a photograph of such sign to the Building Department when applying for a sign permit. The owner of a new sign must submit a photograph of such sign to the Building Department within fifteen (15) days after erection. Applicants required to submit photos under this section may request in writing that the Building Inspector/Commissioner take said photo for a \$5 fee, payable at the time of application.
7. The size of all signs shall be calculated by utilizing the exterior dimensions of the perimeter of a sign. If a sign consists of stand alone lettering and/or symbols a perimeter must be drawn encompassing all of the lettering/symbols and the perimeter will be utilized to calculate the area. All stone monuments and/or framing for any sign will be considered part of the area of the sign.

## D. GENERAL REQUIREMENTS

1. Movement: No sign shall contain any moving, flashing, or animated lights or visible or movable parts. Scrolling electronic messages are prohibited.

## SECTION VII SIGNS AND BILLBOARDS (cont.)

2. Traffic and Directional Signs: Traffic and directional signs owned and installed by a governmental agency are permitted and are not subject to any of the terms and conditions set forth in this Section VII.
3. Temporary Signs: Temporary signs or banners are allowed in any "C" district by permit issued by the Sign Officer for a period of two weeks or less per permit, four times a year per business. Day of the week or similar special signs may be displayed one day per week for a period of 14 weeks, with two permits per calendar year. No more than four permits may be issued to any business in any year for temporary signs or banners or any combination thereof. The temporary signs shall not exceed eight (8) square feet in surface area, shall be sturdy in construction, permanently lettered with letters three (3) inches in height and be in good repair. Temporary signs shall be set back 2 feet from any sidewalk or 10 feet from a traveled way. The banners shall not exceed twenty (20) square feet and be in good repair. All temporary signs shall be placed inside after business hours with the exception of outside banners.
4. Only One Sign: Only one sign containing the same advertising matter shall be placed upon the same exterior wall of a given structure.
5. No signs in "Sight Triangle": No sign shall be placed in the area between 3-1/2 and 10 feet in height above the ground or sidewalk if it is located within the "sight triangle" as defined in Subsection H (2) of this bylaw.

6. Public, Civic and Non-Profit Organizations: Non-temporary signs which do not comply with this Section VII and which identify public, or other non-profit, non-political organizations may be permitted by Special Permit as provided in this Section XI.J.
7. Portable Signs: Portable signs are prohibited in all districts and no permit shall be renewed for any portable signs existing on the date of adoption of this amendment.
8. No outdoor advertising shall be painted or affixed upon any fence, rock, utility pole or tree. Painting on the surfaces of buildings/walls is considered a sign and are subject to area restriction of this bylaw.
9. Unlighted directional signs indicating the route to, or location of, a lawful agricultural use located on another premises are permitted in all residential, commercial and industrial districts provided the following conditions are met: 1) the written consent of the owner of the property where the sign is to be placed is obtained; 2) the sign panel shall be no larger than three square feet; 3) the sign does not obstruct vision or sight line; 4) each agricultural use may have up to three directional signs provided said signs are each located on separate parcels of property; and 5) a permit is obtained from the sign officer. The sign shall be made of aluminum and mounted on a standard street sign pole not to exceed six feet in height.

### SECTION VII SIGNS AND BILLBOARDS (cont.)

10. No permit will be granted for the erection of a billboard, sign or other advertising device which will, in the opinion of the Building Inspector, obstruct the visibility of another sign.

#### E. SIGNS WHICH MAY BE PERMITTED IN ANY "R" DISTRICT

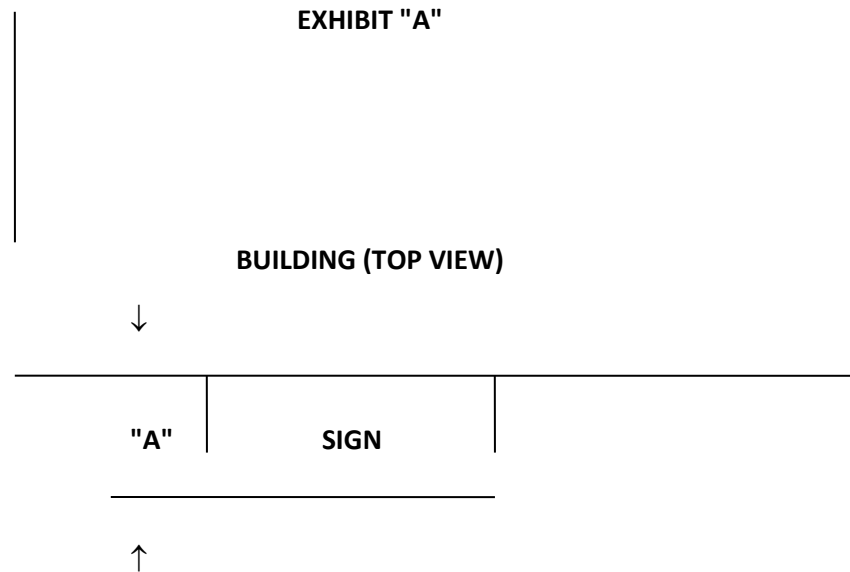
1. One identification sign for each dwelling unit, provided such sign shall not exceed 2 sq. ft. in surface area, and it shall not be used other than for identifying the occupancy.
2. One identification sign for each community facility or public utility use provided the sign shall not exceed 12 sq. ft. in surface area, and it shall be set back at least one-half of the required depth of the front yard.

3. One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided, it shall not exceed 4 sq. ft. in surface area, and it shall be set back at least 10 ft. from the street lot line.
4. One unlighted temporary sign of a painter or other artisan erected during the period such person is performing work on the premises on which such sign is erected, provided, it shall not exceed 4 sq. ft. in surface area, and it shall be set back at least 10 feet from the street lot line.
5. One standing sign for parcel developed for multi-family use, provided that such sign shall not exceed 20 sq. ft. in surface area and it shall be set back at least 15 feet from any street lot line and no part of such sign shall be more than 15 feet from the ground.
6. One instruction sign for each dwelling unit, provided, such sign shall not exceed 2 sq. ft. in surface area. No limitation shall be imposed on "No Trespassing" signs.

F. SIGNS WHICH MAY BE PERMITTED IN ANY "C" AND "BO-P" DISTRICT

1. Any sign permitted in the "R" district subject to the same provisions.
2. Non-accessory signs, subject to the provisions of sub-section H.
3. Accessory Signs:
  - a. Each property containing an individual business is entitled to one principal sign for the front of the establishment to which it relates. This sign may be either a wall sign, projecting sign or standing sign. Each property containing multiple tenants shall be permitted one wall sign or projecting sign and one sign in the form commonly known as a ladder sign.
    1. A wall sign must be flat against the wall. A wall sign shall not project horizontally more than twelve (12) inches there from (see drawing below marked exhibit "A") and the surface area of the sign may not exceed the lesser of (1) ten (10) percent of the wall area to which it is attached to the building, or (2) twenty (20) square feet. Signs consisting of individual letters or devices cut into or securely affixed to the exterior wall of a

building are permitted, provided that such letters or devices have a minimum depth of projection of one-fourth (1/4) of an inch.



**DIMENSION "A" NOT TO EXCEED 12"**

2. A projecting sign shall not project horizontally more than six (6) feet from the building nor exceed twenty (20) square feet in surface area, and it shall be erected at a height not less than eight (8) feet, nor more than fifteen (15) feet from the ground or sidewalk, except that in no case shall a projecting sign extend above the highest point of the structure to which it is attached.
3. A standing sign shall not exceed twenty (20) square feet in surface area and it shall be setback at least fifteen (15) feet from any street lot line, and no part of the sign shall be more than fifteen (15) feet from the ground. When the standing sign is in the form commonly known as ladder sign and identifies more than five (5) separate businesses, such sign may not exceed thirty (30) square feet in surface area.

## SECTION VII SIGNS AND BILLBOARDS (cont.)

4. The use of the ladder format, defined as: a sign with a support post on each end which frames the business listing(s) on each sign, shall entitle the identified address to a sign setback of ten (10) feet from any street lot line and a total of twenty (20) square feet in surface area for one (1) and two (2) separate business listings, twenty-six (26) square feet in surface area for three (3) and four (4) separate business listings, thirty (30) square feet in surface area for five (5) or more business listings. Any address listing more than ten (10) separate businesses may request and receive at the discretion of the Building Inspector permission to split the business listings and erect two (2) ladder signs with no business to be listed on more than one of the two (2) signs and providing that such signage is uniform and furthermore that addresses which receive this exception follow the requirements stated above for each individual ladder sign.
- b. When a business also faces onto a public right-of-way or parking lot on the rear or side of the building, a secondary wall sign may be installed at the entrance on that side. Such secondary wall signs shall satisfy the dimensional requirements of sub-section VII-F-a-l above, except that the area of the secondary sign shall not exceed fifty percent (50%) of the area of the principal wall sign to which the establishment is entitled.
- c. In addition to the standing sign permitted in sub-section VII-F-a-3 above, there shall be permitted for shopping centers, plazas, and planned business developments one standing sign displaying only the plaza or center name, provided that such a sign must comply with the surface area, setback, and height restrictions for standing signs.
- d. There is permitted one directory at each public entrance to the building. Such a directory shall be flat against the wall of the building and shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.
- e. There are permitted three (3) instruction signs for each lot street frontage, provided such signs do not exceed two (2) square feet in surface area. Instruction signs shall not exceed a height of six (6) feet if located on a building freestanding.

- f. Gasoline filling stations, automobile repair garages, and automobile dealers may divide the one wall sign to which they are entitled into separate wall signs indicating the separate operations or departments of the business; however, each such wall sign shall not exceed ten (10) square feet, and the combined area of all such signs shall not exceed thirty (30) square feet. In addition, each establishment is entitled to one (1) standing sign, indicating the brand of gasoline or automobiles sold, which may have a maximum area of thirty-two (32) square feet and a height not exceeding thirty (30) feet to the top of the sign. Only the price per gallon of gasoline is permitted to be electronic and illuminated, no advertising logos or associated information can be electronic or illuminated. The standard type of gasoline pump bearing thereon in usual size and form, the name or type of gasoline and the price thereof shall not be deemed to be a sign within the meaning of this bylaw.

#### SECTION VII SIGNS AND BILLBOARDS (cont.)

- g. Time and temperature devices are permitted for all businesses. They may be standing, projecting, or attached to the wall and are subject to the regulations applicable to standing, projecting, and wall signs.
- h. Any sign listing shall be a minimum of one foot above the ground surface and shall otherwise be no greater in height than as designated herein.
- i. Signs listing more than one business shall exhibit uniformity in color and materials among business sign listings within the same sign structure.
- j. Standing signs including signs in the ladder format shall identify the street address of the building directly above the uppermost business listing at said address.
- k. No sign, artificial light or reflecting device connected or used with a sign or otherwise located or displayed shall be permitted where such light creates a harmful or dangerous condition.
- l. No sign shall be erected with lights of such brightness as to cause unreasonable glare or nuisance affecting pedestrians, drivers or neighboring businesses or residences.
- m. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely on the sign without causing unreasonable glare. Sign shall not be illuminated from within unless they utilize light-colored letters and symbols on an

opaque background, the opaque area must constitute a minimum of 50% of the total area of the sign in order to avoid undue unreasonable glare radiating from the signs.

- n. Window signs may be displayed without a permit, provided that the area of such signs shall not exceed thirty (30) percent of the area of the window glass in which the sign appears. However, repeated violation of this standard shall be cause for non-renewal of the permit for an establishment's principal sign. The Sign Officer shall send a written notice to the owner of the establishment detailing the date and type of infraction and keep a copy for his files. Five (5) infractions by one establishment during any two-year period shall be cause for non-renewal of a permit for an establishment's principal sign.
- o. Sandwich Boards. One "A" frame Sandwich Board sign per business premises shall be permitted, such signs shall not require a permit subject to the following conditions
  - 1. The signs shall not exceed 24" in width and 48" in height.
  - 2. The sign is portable and can only be displayed during business hours.
  - 3. In response to safety concerns, the Building and Police Department may prohibit sidewalks display in designated areas.
  - 4. Placement of the signs cannot interfere with pedestrian traffic.
  - 5. Placement of the sign cannot interfere with the site distance of automobile traffic.

### G. SIGNS WHICH MAY BE PERMITTED IN ANY "I" OR "I-Q" DISTRICT

- 1. Non-accessory signs subject to the provisions of Sub-section H.
- 2. Any sign permitted in the "C" and "BO-P" district, subject to the same provisions of use, except that:
  - (a) The maximum surface area of a sign, except for window signs and instruction signs, is 60 sq. ft., rather than as provided in Sub-section F.
  - (b) A standing sign must be set back at least one-half the depth of the required front yard, rather than as provided in Subsection F.

### H. NON-ACCESSORY SIGNS



- I. Unless exempted by the provisions of Section 32 of Chapter 93 of the General Laws of Massachusetts, no non-accessory sign shall be erected and maintained on any location within 300 ft. of any public way, park or playground if such sign exceeds 5 ft. in height and 8 ft. in length and is within public view from any portion of such areas.
2. Any non-accessory sign erected or maintained within 300 ft. of any public way shall not be closer than 50 ft. to any other such advertising sign, shall not be closer to the public way than 100 ft. and shall not be placed at the corner of any public ways within the radius of 150 ft. from the point where the center lines of such ways intersect.
3. The lowest portion of any non-accessory sign erected or maintained pursuant to these provisions shall be at least 3 ft. from the ground, and the entire structure including braces and supports shall be maintained in good repair, free of rubbish, vermin, and harmful insects and painted.

I. NONCONFORMANCE OF ACCESSORY SIGNS

Accessory signs legally erected before the adoption of this bylaw which do not conform to the provisions of this bylaw may continue to be maintained subject to compliance with the requirements for a permit in effect as of the adoption of this bylaw, provided, however,

SECTION VII SIGNS AND BILLBOARDS (cont.)

that no such sign shall be permitted if, after the adoption of this bylaw, it is enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages), redesigned or altered in any substantial way, except to conform to the requirements of this bylaw and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent of the replacement cost of the sign at the time of restoration shall not be repaired or rebuilt or altered except to conform to the requirement of this bylaw. Any exemption provided in this Sub-section I shall terminate with respect to any sign which:

1. Shall have been abandoned

2. advertises or calls attention to any products, businesses, or activities which are no longer sold or carried on, whether generally or at the particular premises or
3. Shall not have been repaired or properly maintained within thirty days after notice to that effect has been given by the Sign Officer.

J. POLITICAL SIGNS

1. Purpose: This Sub-section J is adopted in an effort to balance the First Amendment rights guaranteed by the United States Constitution with the aesthetic interests of the Town as expressed in Sub-section A of this Section VII of this Bylaw.
2. Definitions: For purpose of this Subsection J., a "political sign" is a sign of a non permanent nature relating to (a) a candidate for public office, (b) an issue which will be voted on at a town meeting or an election, (c) some other issue which may be of general concern, interest or controversy, or (d) a scheduled function, event or activity of a public or nonprofit organization. The word "sign" shall have the meaning assigned thereto in Section II of this By-law.
3. Regulations Particular to Political Signs: Political signs shall be subject to the following provisions and to no other provisions of this Section VII:
  - (a) Political signs referred to in clauses (a) and (b) of Subsection J.2 above may be erected no sooner than sixty (60) days prior to the election or town meeting at which the candidates or issue will be voted on and must be removed no later than five (5) days after such election or town meeting.
  - (b) No political sign may be erected on any property without the permission of the owner of such property.

SECTION VII SIGNS AND BILLBOARDS (cont.)

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- (c) No portion of a political sign shall be located within two (2) feet of a sidewalk, or, if erected on property not separated from a street or way by a sidewalk, within ten (10) feet of the edge of the traveled way of such street or way.
- (d) A political sign erected in any "R" District or any Village District shall be no greater than six (6) square feet. A political sign erected in C, BO-P, I and I-Q Districts shall be no greater than twenty (20) square feet.
- (e) Political signs erected in any Historic District shall comply with the provisions of Massachusetts General Laws Chapter 40C, the Holden Historic District By-Law and the rules and regulations of the Holden Historic District Commission.
- (f) The provisions of Sub-sections C-1, D-1, D-5 and D-7 of this Section VII shall apply to all political signs.

	Residence	Public Utility	Unlighted Temporary Sign	Multi-Family	Ladder Sign	Standing Projecting and Wall Signs	Secondary Corner Wall	Directional Signs
Residential District	2 sq. ft.	12 sq. ft.	4 sq. ft.	20 sq. ft.				

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<b>Commercial and BO-P District</b>	2 sq. ft.	12 sq. ft.	4 sq. ft.	20 sq. ft.	20 sq. ft.	1-2 Businesses	20 sq. ft.	10 sq. ft.	3 @ 2 sq. ft.
					26 sq. ft.	3-4 Businesses			
					30 sq. ft.	5 or more Businesses			
<b>Industrial and Industrial Quarry</b>	2 sq. ft.	12 sq. ft.	4 sq. ft.	20 sq. ft.	60 sq. ft.		60 sq. ft.	30 sq. ft.	3 @ 2 sq. ft.

### SECTION VIII OFF-STREET PARKING AND LOADING REGULATIONS

- A. OFF-STREET PARKING AND LOADING REQUIREMENTS: In any district, if any structure is construed, enlarged, or extended, and any use of land established, or any existing use is changed, after the effective date of this bylaw, parking and loading spaces shall be provided in accordance with Table 4 and 5. An existing structure which is enlarged or an existing use which is extended after the effective date of this bylaw, shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25 percent whether such increases occurs at one time or in successive stages.
- B. GENERAL PARKING AND LOADING PROVISIONS
1. Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the following tables, provided. This regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.
  2. The parking spaces required for the uses listed in the following table shall be on the same lot as the use they are intended to serve or when practical difficulties prevent their establishment upon the same lot, they shall be established no further than 300 feet from the premises to which they are appurtenant. In no case shall the required parking space be part of the area used to satisfy any loading requirements of this bylaw.
  3. No commercially licensed vehicle, in excess of 10,000 lb. gross vehicle weight except a farm vehicle on a farm and construction equipment (during actual construction on the site) shall be parked over night in the R-M, R-10, R-2 and R-1 districts.

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**Table 4. OFF-STREET PARKING STANDARDS**

Use	Number of Parking Spaces Per Unit
Dwelling	Two per unit
Lodging House, Multi-family dwelling, motel and hotel	One and one-half per rental unit
Automotive retail and service establishments	One space for each 4,000 sq. ft. of gross land area
Retail, service, finance, insurance, real estate or other "business" professional establishments	One space per each 200 sq. ft. of net floor area
Wholesale establishment space	One per each 450 sq. ft. of net floor
Manufacturing or industrial establishment - area, plus one space for each 2 employees	One space for each 500 sq. ft. of gross floor area, exclusive of storage
Theater, restaurant, auditorium, church or similar place of public assembly with seating facilities	One for each four seats of total seating capacity
Hospital	One space per two beds
Nursing Home	One space per three beds
School junior high school and four per class- room in a senior high school plus spaces needed for auditorium or gymnasium, whichever has the larger capacity	Two per classroom in an elementary and
Other community facilities(Town building, recreation etc.) or public utility	One per each 300 sq. ft. of net floor space

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Private Recreation Area

Sufficient parking for participants and spectators as approved over the site plan requirements of this bylaw

Publicly sponsored multi-family dwelling for elderly as defined in Chapter 121B of the General Laws of Massachusetts and housing sponsored by a non-profit organization and designed specifically for elderly persons under recognized government assisted programs

One per residential unit plus one space for each 20 residential units

**Table 5. OFF-STREET LOADING STANDARDS**

Use	Number of Loading Spaces Per Unit
Retail trade, manufacturing and hospital establishment with over 5,000 sq. ft. of net floor area	One per 20,000 sq. ft. or fraction thereof of net floor area up to two spaces, one additional space for each 60,000 sq. ft. or fraction thereof
Business services, other services, community facility (school, church, town building, recreation, etc.) or public utility establishment with over 5,000 sq. ft. of new floor area	One per 75,000 sq. ft. or fraction thereof of net floor area up to two spaces one additional space for each additional 200,000 sq. ft. or fraction thereof

- B. 4. The loading spaces required for the uses listed in the above table 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.
5. The Planning Board, in connection with the issuance of a site plan review special permit in accordance with the provisions of Section XI.J.3.g or the issuance of a special permit in accordance with the provisions of Section XI.J.3.i, shall have the authority to modify the parking and/or loading requirements of this Section VIII, including the layout, dimensions and number of required parking spaces up to maximum of twenty percent (20%) where it is demonstrated that with such modification there will be adequate off-street parking and/or loading to provide for the needs of the subject building or use.

C. PARKING, LANDSCAPING AND LOADING SPACE STANDARDS

INTENT: Additional landscaping will provide, visual buffering, shading, an increase in comfort level, a pedestrian friendly environment, and enhance the appearance of the Town.

1. All landscaping required under this Section VIII.C. Shall be maintained in a healthy growing condition, free of refuse and debris. Utilized species shall be tolerant of harsh conditions imposed by New England weather. Native species are preferred. Plantings that do not survive must be replaced, in kind, within one growing season. All plant material and fencing shall be arranged and maintained so as not to obscure the vision of traffic.
2. All trees planted must have a minimum caliper of three (3) inches when measured two (2) feet above ground and all shrubbery must be of a size appropriate for a three (3) gallon container.

C. PARKING, LANDSCAPING AND LOADING SPACE STANDARDS (cont.)

3. The following landscaping requirements shall apply to all Commercial and Business Office-Professional zoning districts. The requirements under this Section VIII C.3. are incorporated into the Planning Board special permit and/or site plan review process. The Planning Board has the right to waive any of the landscaping requirements, but not the setback areas set forth in Section VIII C.4., upon a specific finding, in writing, that a substantial hardship would result or would otherwise cause the property to be in non-compliance with this by-law.



- a. One (1) shade tree shall be planted in an interior landscaped island for every ten (10) interior parking spaces. This is in addition to any perimeter or other on site tree plantings. The islands shall not be smaller than 5 feet by 5 feet (5' x 5') for each interior tree.
- b. The entire required five (5) foot side and rear yard setback shall consist of a landscaping buffer.
- c. In all C and BO-P districts thirty percent (30%) of the fifteen (15) foot setback required under subsection (5)(d) below shall consist of a landscaping buffer with low lying vegetation not exceeding three (3) feet in height.
- d. Every commercial retail building shall provide at least one (1) bicycle rack holding one (1) bicycle for every ten parking spaces provided that in no case shall the applicant be required to provide bicycle rack(s) holding more than six (6) bicycles. The rack(s) shall be located in the front or on the side of the building.
- e. Dumpsters, transformers, generators, and other similar structures shall be located in the rear of the building whenever possible. The Planning Board may require the combination of dense landscaping and fencing for screening. Fencing shall be at least six (6) feet in height.

4. All parking or loading areas containing over five (5) spaces in any zoning district including automobile service and drive-in establishments shall be either contained within structures, or subject to the following:

- (a) The area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any "R" district. Landscape screening shall consist of planting areas at least (20) feet wide located along the side or rear lot lines. The screening shall consist of deciduous or evergreen shrubbery, or a mixture of both types, four (4) to seven (7) feet in height, planted not more than three (3) feet apart on center, at least two

C. PARKING, LANDSCAPING AND LOADING SPACE STANDARDS (cont.)

- (b) (2) Feet from the lot line, and shall provide a mature appearance within three years from planting. In addition, all planting areas shall be landscaped with grass, plants, shrubs, flowers, or mulch. The Planning Board, in connection with the issuance of a site plan review special permit in accordance with the provisions of Section XI.J.3.g., shall have the authority to 1). reduce by up to twenty percent (20%) of the width of the landscape screening area required by this subsection where it is demonstrated that with such reduction there will be adequate screening from adjoining residential properties and that such action is in the best interest of the Town, and 2). Allow in whole or in part the use of a fence, wall or

other structure to achieve the purpose of screening where it is demonstrated that such structure would be more effective and suitable for screening than shrubbery. The screening required by this subsection shall be set back fifteen (15) feet from each street lot line.

- (c) The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulations.
- (d) A substantial bumper or 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.
- (e) 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.
- (f) Any repair or service facility such as gas, oil or water for use by vehicles, shall not be less than twenty five (25) feet from any lot line.

5. Any non-residential parking area shall also be subject to the following:

- a. There shall not be any motor vehicle parked within five (5) feet of any side or rear lot line.
- b. There shall not be any vehicle repair facilities or any repair made to any motor vehicles within required parking area.
- c. There shall not be any storage of materials or equipment or display of merchandise within the required parking area.

C. PARKING, LANDSCAPING AND LOADING SPACE STANDARDS

- d. Parking shall not be permitted closer than fifteen (15) feet from any street lot line in any "C", "BO- P", "I-Q" district.
- e. Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any street.

- f. Any portion of any entrance or exit driveway to the parking or loading area for a non-residential use shall not be closer than one hundred seventy five (175) feet on an arterial street, and one hundred (100) feet on other streets from any intersecting street. No more than two driveways shall serve any one lot.
  - g. Any two (2) driveways leading from a street to a single area shall not be within fifty (50) feet on an arterial street as measured between their nearest edges at their intersection with the front lot line. For collector and Minor Street, the distance shall be twenty (20) feet.
  - h. Any entrance or exit driveway shall not exceed twenty (20) feet in width at its intersection with the front lot line.
- 6. Parking spaces as required for Dwellings in Table 4 shall not be located within the required front yard area in any "R" district.

#### D. LIGHTING

INTENT: The intent of this lighting by law is (i) to protect the historical characteristics of the business and commercial districts while allowing for adequate outdoor or exterior lighting that will increase public safety and (ii) to eliminate, in all districts, nuisances or public hazards caused by glare from outdoor or exterior lighting.

- 1. In no district shall any light lumens trespass or produce glare onto an abutter's property.
- 2. The following regulations shall apply to lighting other than lighting of single and two family residential homes. These regulations shall not be applicable to temporary holiday lighting or internal lighting, to street lighting, traffic control lighting or other lighting installed by or required by a governmental agency for public safety on street or ways, or to any emergency lighting.
  - a. No lighting fixtures shall exceed or be installed in excess of 25 feet in height.
  - b. No individual lighting fixture shall exceed the following maximum foot-candles:

## TOWN OF HOLDEN - DEPARTMENT REFERENCE MANUAL

(i)	Parking Lots	Horizontal Illuminance Maximum Foot-candles
	Level of Activity	
	Display of Automobiles	20.0
	HIGH	4.0
	Fast Food Facilities	
	Community Shopping Centers	
	Restaurants	
	MEDIUM	
	Individual Retail Facilities	3.0
	Office Parking	
	Residential Complex Parking	
	LOW	1.5
	Educational Facilities	
	Churches	
(ii)	Driveways/Egresses	1.0
(iii)	Building Exteriors	
	Active Entrances	5.0
	Inactive Entrance	1.0
	Floodlit Buildings/Monuments/Signs	10.0
(iv)	Gas Station Pump Island	20.0

(v) Recreational Fields

20.0

- c. All light emitting devices in excess of .8 foot candles shall be shielded.
- d. Floodlighting, inserted at ground level, of free standing signs or businesses is permitted provided that the lighting is directed away from public ways, does not produce glare and is not in excess of 10 foot candles and is otherwise in compliance with the provision of Section VIII.
- e. No free standing wooden poles shall be utilized for lighting purposes.
- f. Pole and flood lighting shall be directed below the horizontal plane of the light emitting device, away from traffic, and be directed within property boundaries of the property on which it serves.
- g. No freestanding lighting poles shall be placed within fifteen feet of the front yard setback in any C, BO-P, I, I-Q zones. Existing parking lots located in the fifteen foot front yard setback may install lighting within the setback requirement for the purpose of providing illumination to existing areas upon a finding from the electrical inspector that the lighting will result in an increase in public safety, that glare will not occur, and poles do not result in the obstruction of site distance.
- h. A lighting plan shall be submitted with all building permit, variance, special permit, site plan review, and electrical permit applications. The lighting plan shall depict the location, and height of the lighting fixture and include manufacturer's specification data including the lumens and photometric data, (expressed intensity in foot candles) showing angle of cut-off. All lighting plans are subject to the approval of the Town of Holden Electrical Inspector and no lighting plan can be changed without comparable approval.
- i. Temporary lighting which does not conform to this ordinance maybe allowed upon the review and approval of a lighting plan to the Town of Holden Electrical Inspector upon a finding that the use will benefit the public good and not result in a public nuisance or hazard. The temporary lights may not be in use for a period greater than two weeks and shall under no circumstances exceed 10 footcandles.
- j. The use of laser and searchlights for advertising purposes are prohibited.

3. **Enforcement:** The Electrical Inspector of the Town of Holden is hereby designated as the individual responsible to enforce the lighting provision of this bylaw. The Electrical Inspector is authorized to order the repair or removal of any light fixture and its supporting structure which in his judgement is dangerous, or in disrepair or which is erected or maintained contrary to this bylaw.

## SECTION IX

### NONCONFORMING USES, STRUCTURES AND LOTS

- A. APPLICATION: The provisions of this section apply to nonconforming uses, structures and lots as created by the initial enactment of this bylaw or by any subsequent amendment. Unless specifically permitted by the provisions of this section, no nonconforming structure or use shall be extended, altered, changed or reconstructed and no non-conforming lot or open space on a lot (yards, setbacks, courts or building area) shall be further reduced or increased so as to be in greater nonconformity unless either (a) it is specifically permitted by the provisions of this section, or (b) the Zoning Board of Appeals grants a special permit therefor after finding that it is not substantially more detrimental to the neighborhood than the existing nonconforming structure, use, lot or open space.
- B. EXTENSION AND ALTERATION
- I. Any nonconforming structure may be altered or extended and the conforming use extended throughout the altered or extended portions provided that any resultant alteration or extension shall not cause the structure to violate the applicable provisions of Tables 2 through 5 inclusive of this bylaw relative to the district in which the structure is located.
  2. Any nonconforming structure or portion thereof or any non-conforming lot which has come into conformity shall not again become nonconforming.
- C. RESTORATION: Any nonconforming structure partially or totally destroyed by fire or any catastrophe, may be restored to the original use and bulk of the original structure within 2 years of the occurrence of such fire or catastrophe. Restoration after 2 years of the date of such fire or catastrophe shall not be permitted except in accordance with the use, yard, height and bulk regulations of the bylaw.
- D. ABANDONMENT: Any nonconforming use of a structure or lot which has been the subject of abandonment shall not be used again except for a conforming use.
- E. UNSAFE STRUCTURE: Any structure determined to be unsafe (by causes other than fire or catastrophe) may be restored to a safe condition. Such work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe; and it shall

not place the structure in greater nonconformity. If the cost to restore any structure shall exceed 50 percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

- F. Any increase in area, frontage, or setback requirements; shall apply to any lot in a residential zoning district except to the extent that either the provisions of M.G.L. c. 40A Subsection 6 apply or the following provisions, provide otherwise. Any increase in area, frontage or setback requirements prescribed by the Town's Zoning Bylaw shall not apply to any lot in a residential district if the Zoning Board of Appeals finds that all of the following requirements are met and the Zoning Board of Appeals grants a special permit to permit the development of a single or two- family home on the residential lot.
1. At the time of the recording or endorsement, the lot (a) conformed to the requirement in effect at the time of recording or endorsement, but did not conform to the increased requirements, and (b) had at least fifteen thousand square feet of area in the R-2 district and twenty thousand square feet of area in the R-1 district, and (c) had at least eighty feet of frontage;
  2. The size or shape of the lot has not changed since the lot was created by such recording or endorsement (a) such change complied with present Town requirements for frontage, area and setbacks, or (b) the Zoning Board of Appeals specifically finds the change to the lot was de minimis relative to the interest of the neighborhood if that lot would be developed;
  3. Either (a) the lot was not held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, or (b) if the lot was held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, such lot had on it a single family or two-family dwelling;
  4. The Board must find that the proposed development will not be more detrimental to the neighborhood.



## SECTION X

## SPECIAL REGULATIONS

- A. SPECIAL REGULATIONS GOVERNING USES PERMITTED IN THE INDUSTRIAL- QUARRYING (I-Q) ZONE: For quarrying and for processing and treating quarried raw materials, the following regulations shall govern:
1. Quarrying shall not be conducted closer than 100 ft. to a public highway or to any property line except that it shall be no closer than 200 ft. from any residential property.
  2. All equipment, except mobile equipment, for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 ft. from any public highway or from any adjoining property line.
  3. 0.75 off-street parking space will be provided for every two employees on the combined employment of the two largest successive shifts. Surfacing of parking spaces is not necessary to meet the requirements of this bylaw.
  4. Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP-OUT-DANGER signs.
  5. Adequate provision is to be made for drainage during and after the completion of operations.
  6. Lateral support shall be maintained for all adjacent properties.
  7. The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.
  8. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.

9. Site plans shall be submitted to the Building Inspector in accordance with the following criteria:
  - a. A site plan shall be filed with the Building Inspector for any land which is used or intended to be used for the extraction of rock and associated earth materials.
  - b. The site plan of the quarrying areas shall be prepared by a registered professional engineer at a scale of 200 ft. to the inch, or at a scale showing

**SECTION X SPECIAL REGULATIONS (cont.)**

more detail as approved by the Building Inspector, and shall include the following:

- (1) Property Lines.
  - (2) Adjacent public highways.
  - (3) Water supply and sanitary sewerage system and temporary and permanent drainage of the site.
  - (4) Topographic mapping showing contours at intervals of not more than 10 ft.
  - (5) The plan for lighting if night operation is contemplated.
  - (6) Proper provision for vehicular traffic, service roads, control of entrances and exits to highways.
  - (7) The location of existing and future buildings and operations machinery.
  - (8) Delineation of the existing quarried area and the proposed area to be quarried in the immediate future (next three years).
  - (9) Provisions for a substantial fence where necessary to protect against hazards to be expected as part of the mining and quarrying operation. Any such fence shall be located 50 ft. or more from the edge of the mine or quarry, and shall be at least 5 ft. in height.
10. A statement shall be submitted indicating the disposition of overburden.

11. A statement shall be submitted indicating the proposed reuse of the site which has been quarried. It is recognized that the land reuse of the quarrying areas is in the public interest.
12. Violations shall be prosecuted in accordance with Section XI-G of these regulations.

### SECTION XI ADMINISTRATION AND ENFORCEMENT

- A. **BUILDING INSPECTOR:** It shall be the duty of the Building Inspector to administer and enforce the provisions of this bylaw.
- B. **PERMIT REQUIRED:** It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building Inspector a building permit. It shall be unlawful for any person to change the use or lot coverage or extend or displace the use of any building structure or lot without applying for and receiving from the Building Inspector a use permit.
- C. **PREVIOUSLY APPROVED PERMIT:** The status of previously approved permits shall be governed by Section IX of this bylaw.
- D. **CERTIFICATE OF OCCUPANCY REQUIRED:** It shall be unlawful to occupy any structure or lot for which a building permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy. The Building Inspector shall take action within ten business days of receipt of an application for a certificate of occupancy. Failure of the Building Inspector to act within ten business days shall be considered approval.
- E. **PERMIT AND CERTIFICATE FEES:** Fees shall be as established by the Selectmen.
- F. **PERMIT TIME LIMITS:** Any work for which a permit has been issued by the Building Inspector shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Inspector.

If construction under a building permit is not commenced within six months after the issuance thereof and continued through to completion as continuously and expeditiously as is reasonable, or if construction or operations under a special permit granted by the Zoning Board of Appeals are not commenced within one year after the issuance thereof and continued through to completion as continuously and expeditiously as is reasonable, such construction or operations shall conform to any subsequent amendment to this bylaw.

- G. **VIOLATIONS:** The Building Inspector shall give a notice of VIOLATION AND ORDER to any person or owner responsible for the erection, construction, reconstruction, conversion, alteration of a

structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot 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 order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation.

### SECTION XI ADMINISTRATION AND ENFORCEMENT (cont.)

- G. Any owner who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare. If, after written notice, a violation of this bylaw continues, the Building Inspector shall institute appropriate legal proceedings to enforce the provisions of this bylaw or to restrain any violation thereof, or both. Whoever violates any provision of this bylaw or any lawful order of the Building Inspector, or fails to take constructive action to rectify any such violations shall be subject, upon conviction, to a fine of not less than twenty-five (\$25.00) dollars nor more than one (\$100.00) dollars per offense. Each day that a violation continues shall constitute a separate offense.
- H. **PROSECUTION OF VIOLATION:** If the notice of VIOLATION AND ORDER is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.
- I. **PERMIT GRANTING AUTHORITY AND SPECIAL PERMIT GRANTING AUTHORITY, shall mean the ZONING BOARD OF APPEALS.** The Special Permit Granting Authority in the case of Community Antenna Television and commercial and noncommercial kennels shall be the Board of Selectmen. The Special Permit Granting Authority for site plan review special permits under Section XI.J and the cluster special permit shall be the Planning Board.
1. **MEMBERSHIP** - There shall be a Board of Appeals of five members and two associate members.
  2. **APPOINTMENT** - Members of the Board in office at the effective date of this bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Enabling Act for a term of three years.
  3. **POWERS** - The Board shall have those powers granted under the Zoning Enabling Act.

4. ADOPTION OF RULES - The Board shall adopt rules to govern its proceedings pursuant to the Zoning Enabling Act.
5. APPEALS - Appeals to the Board shall be taken in accordance with the rules of the Board and the Zoning Act.
6. ZONING ADMINISTRATOR - The Zoning Board of Appeals, subject to confirmation by the Board of Selectmen, may appoint a Zoning Administrator in accordance with Section 13 of the Zoning Enabling Act.

### SECTION XI ADMINISTRATION AND ENFORCEMENT (cont.)

- J. **SPECIAL USE PERMITS:** Certain uses, structures or conditions are designated as exceptions in Section V, Table of Use Regulations and elsewhere in this bylaw. Upon application duly made to the Board of Appeals Planning Board or Board of Selectmen, as the case may be, the Board may, in appropriate cases and subject to the appropriate conditions and safeguards, grant a special permit for such exceptions and no others.
1. APPLICATION: Written application shall be filed as required by law for such permit containing a statement of the proposed use or uses, a site plan showing the proposed site development, and such other related information concerning the proposed use of the premises as the Board shall required.
  2. HEARING, ACTION: Special permits shall only be issued after a public hearing which must be held within sixty-five (65) days or such other period as may be specified by statute, after the effective date of filing of a special permit application. The hearings of the Board shall be conducted in accordance with the provisions of MGL, CH.40A, and Section I5.
  3. CONDITIONS: Special Use Permits shall be granted only upon the concurring vote of four or more members, and only after a consideration by the Building Inspector of the specific site as an appropriate location for the use or structure, the adequacy of public sewerage and water facilities, or the suitability of soils for on-lot sewerage and water systems, the use developed as a possible adverse effect on the neighborhood, undue nuisance or serious hazard to vehicles or pedestrians; and adequate and appropriate facilities to ensure the proper operation of the proposed use, structure, or condition. The Board shall authorize such special permit only when it finds that, in view of these

considerations, such exception is consistent with the intent of this bylaw and generally in conformity with the Future Lane Use and Thoroughfare Plan for the town as last revised.

The Board shall also impose in addition to the conditions specified for the following uses 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 strip, 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, 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 in this bylaw.

### SECTION XI ADMINISTRATION AND ENFORCEMENT (cont.)

J. 3. (cont.) A special permit granted pursuant to this bylaw shall lapse two years from the granting thereof unless substantial use or construction thereunder shall have commenced within such period.

a. Open Space Residential Development Bylaw

A. Intent and Purpose

This Open Space Residential Development (OSRD) is adopted to serve the following interests and purpose:

The Town of Holden wishes to allow for greater flexibility and creativity in the design of residential subdivisions and developments;

The Town desires to advance the goals and policies of the Community Development Plan, Holden Master Plan (2008 Holden Tomorrow and its subsequent updates) and the Holden Open Space and Recreation Plan (and subsequent updates), which promote attractive landscaping, a walkable community, and managed open space;

The Town desires to encourage and facilitate the permanent preservation of open space, agricultural lands, forestry land, wildlife habitat, wildlife corridors, areas adjacent to preserved land, and other natural, historic, and scenic resources;

The Town desires to maintain the traditional New England character and land use pattern in which small villages contrast with open space and farmlands;

The Town desires to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner;



The Town desires to protect and enhance the value of real property and preserve and enhance the community character;

The Town desires to facilitate and encourage, when possible, a variety of housing types and range of affordability's, and;

The Town desires to encourage a cluster form of residential development that consumes less open land, respects a site's physical characteristics, and minimizes the total amount of disturbance to the site. Sprawling residential development is discouraged.

### SECTION XI ADMINISTRATION AND ENFORCEMENT J. 3 (a) (cont.)

#### B. Applicability and Requirements

Each proposed Open Space Residential Development shall require a Special Permit from the Planning Board. If the development requires the creation of new roadways, the applicant shall adhere to the Planning Board's Rules and Regulations governing Subdivision. The application for the Special Permit, Site Plan Approval, and any Subdivision permitting shall be coordinated by the Planning Board for review at the same meeting date, as best able and practical.

Open Space Residential developments are subject to the following dimensional requirements:

##### (1) Dimensional Requirements

(a) The minimum total lot size required for a OSRD development is 10 acres;

(b) R-40, R-1 and R-2 Zoning Districts

	1-2 Family Units	3-4 Family Units
Frontage	70	100
Area	10,000	20,000
Front Yard Setback	20	20

## TOWN OF HOLDEN - DEPARTMENT REFERENCE MANUAL

Rear Yard Setback	20	20
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### R-10 and R-M Zoning District

	1-2 Family Units	3-4 Family Units	
Frontage	70	80	
Area	5,000	10,000	
Front Yard Setback	20	20	
Rear Yard Setback	20	20	

(c) The minimum frontage for the overall site subject to OSRD shall be fifty (50) feet consistent with the buffer requirements in section D.2.

(d) Structures shall be at least twenty (20) feet apart with a minimum ten (10) foot side yard. In the case of townhouses or attached multi-unit structures, zero lot lines will be allowed.

### (2) Determination of Maximum Dwelling Units and Maximum Developable Area

#### (a) Method of Determination

The total number of units allowable shall not exceed the number of units that would be allowed in the underlying zoning district ("Allowable Lots") based upon a conventional subdivisions except as permitted by a density bonus as described below. The Allowable Lots shall be determined by the layout of a conceptual Yield Plan showing the total number of lots which could be obtained by utilizing a conventional grid subdivision. The burden of proof shall be upon the applicant to demonstrate to the satisfaction of the Planning Board the number of Allowable Lots.

The following land shall be considered constrained land and cannot be utilized to calculate the Allowable Lots:

- (1) Land within a floodplain as defined by Section XIII.
- (2) Fresh water wetlands, as subject to protection under Mass. General Law Chapter 131, Section 40 (The Wetlands Protection Act) and the

Regulations promulgated thereunder (310 Code of Massachusetts Regulations 10.00), as amended or changed from time to time

- (3) The land protected under Article XXIII of Chapter 2 of the Holden Conservation Commission Local Wetland Bylaw and associated regulations including the 25' no disturb area from all Bordering Vegetated Wetlands.
- (4) Land having slopes in excess of fifteen percent (15%).
- (5) Land previously prohibited from development under a conservation restriction held by the Conservation Commission or a conservation land trust.
- (6) Land otherwise prohibited from development by local or state bylaw, regulation, or statute.
- (7) Land set aside for stormwater treatment. Stormwater treatment, and BMP's cannot be located within the required open space area.

**(b) Maximum Developable Area**

The Maximum Developable Area shall comply with this section. The Maximum Developable Area must be calculated by a registered land surveyor or professional engineer by taking the original parcel size and subtracting the Constrained Land and calculating a maximum of 50 percent of available land.

**Example**

Total Parcel Size (60 acres) less Constrained Land (20 Acres) = Available Land (40 acres)  
50% of Available Land (40 acres) = Maximum Developable Area for this project (20 Acres)

Maximum Developable Area shall include land set aside for driveways roads, rights-of-ways way necessary for access and egress to the site, and parking uses.

**C. Density Bonus**

The Planning Board may allow the number of dwelling units permitted on the site to exceed the number of Allowable Lots derived from the Yield Plan by an amount up to twenty percent (20%), in the aggregate, given the following circumstances (computations shall be rounded to the lowest number):

- (1) For the construction of passive and/or active recreation facilities that are available and accessible for public use, one (1) dwelling unit may be added per two (2) acres of active recreation land or per mile of trail;

- (2) For each additional five percent (10%) of the site set aside as open space (over and above the required fifty percent (50%) set aside as open space), one dwelling unit may be added as a density bonus;
- (3) For every five (5) acres of active farmland preserved at the site, one dwelling unit may be added as a density bonus;
- (4) Utilizing Low Impact Development techniques, as defined in the Subdivision Control Regulations Chapter 7.3 to prevent any net increase of runoff volume from a site for the ten year storm event with provide 20% density bonus.

D. Design

General Design Standards set forth in Section V of the Holden Rules and Regulations Regarding the Subdivision of Land are applicable to both the construction of public way, private ways and/or driveways. The following additional Design Standards shall apply:

The Applicant must demonstrate the following design process was performed by a certified Landscape Architect and Professional Engineer

- (1) General Design Standard
  - (a) Identify Conservation Areas

This includes resource areas identified in the Wetlands Protection Act, farms, aquifers, unique or sensitive wildlife habitats, unusual geologic formations, steep slopes (greater than fifteen percent (15%)), mature

SECTION XI ADMINISTRATION AND ENFORCEMENT J. 3 (a) (cont.)

forests, meadows, scenic views, and cultural features such as historic and archeological sites.

- (b) Locate House Sites

Locate the lots and the approximate sites of individual houses within the Developable Area as well as private yards and shared amenities so as to reflect an integrated community. The Town encourages clustering of homes. The development should be designed so that the maximum number of homes can enjoy the amenities of the development (including conservation areas). The orientation of individual building sites shall be such as to maintain a minimum of 25% of the minimum area as existing natural topography and cover. This minimum area can be waived if the Applicant can prove to the

Board there are specific site conditions which prohibit compliance. To the maximum extent possible, topography, tree cover and natural drainage ways shall be treated as fixed determinants of road and lot configuration.

Proposed buildings and associated development shall be compatible with surroundings, terrain, and the scale and architecture of existing buildings that share a functional or visual relationship to the proposed buildings. The design and location of the structures on the site shall be consistent with the visual scale and character of a single family development.

### (c) Align the Streets and Trails

Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees, to minimize cuts and fill, and to preserve and enhance views and vistas on or off the subject parcel. Trails shall be laid out to create internal and external connections to existing and/or potential streets, sidewalks and trails.

## (2) Site Specific Design Standards

(a) A buffer area of fifty (50) feet shall be provided around the perimeter of the property. This area may be left in its natural state, plantings or other forms of buffering maybe required as the Planning Board deems necessary to provide adequate buffering to abutting property. This area may count toward the common land requirement.

(b) Landscaping and Screening – The applicant shall submit a conceptual landscape plan for all structural surface stormwater management facilities, parking areas with more than ten (10) spaces, dumpsters and storage areas. Parking areas with more than ten (10) spaces shall be screened from public view.

(c) On-Site Pedestrian and Bicycle Circulation – Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate to promote a walkable community.

## E. Common Land

The Planning Board may require that at least half of the common open space be left in a natural state. Any proposed common open space shall be subject to a recorded restriction, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner to ensure that it is suitable for its intended purposes.

The common open space shall be contiguous. Contiguous open space may be separated by a roadway or accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw. The common land boundaries shall be surveyed and defined by permanent markers. The common open space shall be of a shape, dimension, character, and location suitable for use by all residents of the OSRD and, where possible and appropriate, Town residents.

All common land shall have suitable access to a street and shall provide a separate pedestrian and/or bikeway access apart from the roadway to interconnect all significant portions of the development. Common land as determined below may be assigned to specific areas when in the judgment of the Planning Board the preservation of such areas is needed to protect Town interest, abutting properties and community amenities. Common land shall be located so as to provide open space buffering between existing development and the proposed Open Space Residential Development subdivision, suitable to Planning Board site design concerns.

### (3) Use

The common open space shall be used for the following purposes or a combination thereof: undisturbed conservation, forestry, horticulture, agriculture, historic preservation, outdoor education, and active and passive recreation uses including parks, playgrounds, playing fields and similar facilities for the use and enjoyment by residents. To the degree appropriate, open access to Town residents is encouraged. The common open space shall have at least forty (40) feet of frontage to permit suitable

access for such purposes. Subsurface wastewater and stormwater management systems serving the OSRD may not be located within the open space unless the Board finds that such uses will not be detrimental to the character, quality or use of the open space.

### (4) Ownership

The common land must be preserved in perpetuity and shall be conveyed to one of the following:

- (a) The Town of Holden or the Holden Conservation Commission;
- (b) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- (c) A homeowner's association, corporation or trust owned jointly or in common by the owners of lots or residential units within the OSRD.

### (5) Professional and Technical Review

The Board may hire professional and technical consultants to assist the Board in analyzing an OSRD to ensure compliance with all relevant laws, bylaws and regulations in accordance with the provisions of MGL Chapter 53G. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulation, or inspecting a project during construction or implementation. The expenses for engaging professional and technical assistance and review in connection with an OSRD shall be borne by the Applicant.

- b. For the use of a trailer for residential purposes under hardship conditions as determined by the Zoning Board in any "R-40", "R-1" or "R-2" district provided:
  - (1) Any trailer shall not be used for more than six months by any family.
  - (2) No wheels, tires or other means of keeping the trailer mobile shall be removed; any trailer shall have a current state motor vehicle license.

- (3) No skirts, porches, fences or similar materials or equipment shall be added to any trailer which would detract from its mobility.
  - (4) Each trailer and the lot upon which it is situated shall be subject to the same requirements as for a single family detached dwelling in the "R" district in which it is located.
- c. For the use of a single-family detached dwelling in any "R" district for a home occupation, provided:
  - (1) No more than one non-resident shall be employed therein.
  - (2) The use is carried on strictly within the principal building.
  - (3) Not more than 25% of the existing net floor area not to exceed 600 sq. ft. is devoted to such use
  - (4) That there shall be no display of goods or wares visible from the street.
  - (5) No advertising on the premises other than a small non-electric sign not to exceed 2 sq. ft. in area and carrying only the occupant's name and his occupation such as physician, artisan, teacher, day nurses, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist and similar occupations or professions.
  - (6) The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way.
  - (7) Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from residential development considering volume, type, hours and other traffic characteristics.



- (8) Parking generated shall be accommodated off-street, but not more than two (2) spaces shall be in a required front yard.
  - (9) No repetitive servicing by truck for supplies and materials shall be required by the home occupation.
  - (10) Such special permit shall impose conditions and limitations as necessary to protect abutting properties and the public, including the limitation that the home occupation authorized by the special permit may not be transferred to a different operator without a new special permit, that the occupation shall be subject to compliance review by the Building Commissioner at periods specified in the special permit, and that such special permit may be revoked by a majority vote of the Board of Appeals at any time after notice and hearing, upon the Board's determination that the terms of the special permit are being violated.
  - (11) Any such building shall not include any feature design not customary in buildings for residential use.
  - (12) No special permit can be granted for the following home occupations in any zoning district other than the "R-10" district: clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes and animal hospitals.
- d. For the planned business development of land for any permitted use in any "C", "BO-P" and "I" district having a maximum building coverage which is more than the maximum permitted in the table of area regulations and/or such a development of land having less than the parking requirements contained in Section VIII provided:
- (1) The tract in single or consolidated ownership at the time of application shall be at least three acres in size, a development plan shall be presented for the entire tract.
  - (2) Use shall be contained in one continuous building except that groupings of buildings may be allowed by special permit of the Board where such groupings are consistent with the safety of the users of the development

and are further consistent with the overall intent of this section the development shall be served by one common parking area.

- (3) The ratio of the net floor area of the building to the total lot area shall not exceed 0.50.
  - (4) Parking requirements are to be 90% of those otherwise required for the district in which the planned business development is located.
- e. 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 500 cu. yards or more or where the area to be filled in exceeds 10,000 sq. ft. and for the excavation and removal of sod, loam, soil, top-soil, clay, sand, gravel or other earth materials from or on any land which changes substantially the existing contours thereof, such uses shall be permitted only after the granting of a special permit, for a period of at least one year or as may be otherwise

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (e) (cont.)

specified by the Board issued under such conditions as the Board may impose to prevent damage to adjoining property and to protect the health, safety, convenience, and welfare of the community, provided however, that such a special permit shall not be required for a person who is constructing a subdivision approved by the Holden Planning Board or for a person, who in situations regulated under Chapter 131 of the General Laws, the so-called "Hatch Act", as last amended, has filed with the Holden Board of Selectmen, in accordance with said Act, written notice of his intention to so fill, excavate or remove, including such plans as may be necessary to describe the proposed activity. Additional conditions may include among others:

- (1) Submission of a reference map at a scale of 1" = 1,000' showing the area to be filled in or excavated, property lines within which the filling in or excavation is proposed and tie-in to the nearest road intersection.
- (2) Submission of a map to a scale of 1" = 40' of the premises and surrounding area within 100 ft. showing in addition to (1) above, existing and proposed contour lines at intervals of not more than 2 feet resulting from the proposed filling in or

removal in relation to the topography of the premises, said map to be prepared by a registered civil engineer or land surveyor.

- (3) Provision for temporary and permanent drainage of the site.
- (4) Limitation of excavation or fill to terrace cuts or terrace fills which are not to exceed 10 ft. at any one time nor be within 10 ft. of an adjacent property line or any cut.
- (5) Regrading of all or parts of the slopes resulting from such excavation or fill.
- (6) Replacement of at least 4 in. of topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization. Also, as a condition precedent to the granting of such permit, the Board shall require a bond signed by the owner and applicant as principals in an amount to be determined by the Board with a sufficient surety approved by the Board, to be posted with the Town of Holden to assure fulfillment of any condition imposed, within such time as the Board may set.

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (e) (cont.)

- (7) Submission of plan for lighting if night operation is contemplated.
  - (8) Where any excavation or fill will have a depth of 10 ft. or more and create a slope of more than 1 in 2 there shall be a substantial fence enclosing the fill or excavation, at least 6 ft. in height with suitable gates. Such fence shall be located 50 ft. or more from the edge of the excavation or fill.
- f. Uses accessory to and necessary for the operation of any permitted use involving scientific research or development or related production shall be permitted on the same or different parcel from that on which the permitted scientific research or development or related production is located if the Board of Appeals grants a special permit therefor after finding that the proposed accessory use does not substantially derogate from the public good.

- g. Site Plans: The following instances shall require the issuance of a site plan review special permit from the Planning Board in accordance with the provisions of this Section XI.J.3.g.:

(A) If a use is being commenced or changed from one use to another and if Table 4 of the Zoning Bylaw requires ten (10) or more parking spaces (e.g. a new mall is being proposed or a house is being changed to a bank). If there is a change of use and the change does not require an increase in parking under Table 4., then no site plan review special permit shall be required (e.g. a card store is being change to a lawyer's office).

(B) If there is a change of use and Table 4 requires ten (10) or more parking spaces, and if the change of use requires the issuance of a special permit or a variance (e.g. a restaurant is being proposed).

(C) If a building is being enlarged and Table 4 requires ten (10) or more parking spaces, even if the parking requirement is not increased by the enlargement (e.g. a hospital is proposing a new wing).

(D) If a use is being commenced or changed from one use to another and the use involves a drive-up or self activating facility, regardless of the number of parking spaces required by Table 4.

- (1) Applications. Special permit application forms shall be submitted in duplicate and shall be accompanied by eight (8) copies of the proposed site plan and such other documents and fees as the Planning Board may require.

SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (g) (cont.)

- (2) Content of Plans. Site plans shall be submitted in a scale of not less than 1"=40'. Site plans shall show the boundaries of the premises, label direct abutters, existing and proposed topography, existing and proposed buildings including the facades thereof, building elevations, exterior building materials, parking, screening, water, sanitary sewerage, storm drainage, loading areas, driveway openings, driveways, service areas and lighting. A landscaping plan must be submitted designating the location and species of each proposed and existing planting. There must be a landscaping table included on the plan which lists

species, quantity, and size. All dumpsters, outside storage areas, generators and other similar structures must be marked on the landscaping plan and designate proposed screening. Fencing must show location, type and height.

(3) Review. In reviewing each such application, the Planning Board shall determine that the site plan is so designed as to assure the following:

- (a) Adequate parking and safety of internal circulation and egress.
- (b) Traffic safety and ease of access at street and high- way entrance and exits of driveways, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street(s) or highway intersection(s).
- (c) Adequate access to each structure for fire and service equipment.
- (d) Adequate utility service and drainage, consistent with the performance standards of the Subdivision Control Regulations for the Town of Holden.
- (e) The proposed site fits in with the scale and architectural style of surrounding properties.
- (f) Architectural and site details: Details, color texture, materials, light fixtures, signs and all exterior features should be visually compatible, blending to create a diverse yet unified street composition.
- (g) The Board will review all proposed alterations of, and additions to, existing structures, and all new construction.
- (h) New construction should respect the existing historic streetscape. The historic relationship of buildings to the street and to other properties in the district, including setbacks and open spaces, should be maintained.
- (i) The Board will consider the appropriateness of the size, massing, scale, height, and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity.

- (j) New structures should be finished on the exterior with composition, and architectural details that are consistent with the architectural style predominant in the vicinity.
    - (k) Features such as doors and windows should be compatible in proportion, size, shape, location, and pattern with similar features on other contributing structures.
  - (3) Applications approved under this section shall be constructed according to plans submitted to the Planning Board, and any modification(s) thereof after Planning Board approval, including changes to the facade of the structures as presented to the Planning Board during review of the Special Permit, shall require the approval of such modification by the Planning Board. The Planning Board may approve such modification during any regular meeting of the Planning board if the Board determines that the modification is not substantial. Any substantial modification shall require a full submission under the application procedure outlined in item 1 of this section.
- h. Accessory Apartment Zoning By-law

(1.0) Intent and Purpose.

Whereas, the Town provides a variety of types of housing to meet the needs of its residents; and

Whereas, the Town wishes to protect the stability, property values and the single-family residential character of neighborhoods and at the same time accommodate a variety of living options

Whereas, the Town wishes to authorize the creation of such accessory apartments and at the same time encourage the Town to monitor conversions for code compliance;

Now, therefore, the “Accessory Apartment Zoning By-Law” is hereby established;

## SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (h)

### (2.0) Special Permit Procedures and Conditions

The Board of Appeals may authorize an Accessory Apartment by Special Permit in any residential district, provided that each of the following standards and criteria are met:

- (a) The Accessory Apartment may be a complete, separate housekeeping unit that functions as a separate unit from the one-family detached dwelling of which it is a part. The owner of the home must reside in the main dwelling unit or the accessory apartment.
- (b) Only one Accessory Apartment may be created within a one-family dwelling.
- (c) An Accessory Apartment may only be created in a dwelling which would otherwise be classified as a one-family detached dwelling. An accessory apartment must be attached to the main residential structure and shall share a common wall with the main residence.
- (d) The lot on which the single-family house is located must have a minimum of 10,000 square feet and must comply with all applicable zoning requirements for its district after the accessory apartment has been created.
- (e) Adequate provision must be made for the disposal of sewage, waste and drainage generated by the occupancy of the entire dwelling including the Accessory Apartment in accordance with the requirements of the Holden Board of Health.
- (f) The Accessory Apartment shall be designed so that the appearance of the building remains that of a one-family detached dwelling as much as is feasibly possible. Any new entrances shall be located on the side and rear of the building.

(g) The Accessory Apartment shall be clearly a subordinate part of the one-family dwelling. It shall be no greater than seven hundred (700) square feet nor have more than two (2) bedrooms. Accessory apartment consisting of 850 square feet may be permitted for handicapped accessibility.

### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (h)

(h) At least three off-street parking spaces must be provided for any one-family dwelling which has an Accessory Apartment.

(i) The construction of any Accessory Apartment must be in conformity with State Building Code requirements. Two means of egress must be provided to comply with State Building Code.

(j) Any Accessory Apartment Special Permit shall (A) be transferable with the sale of the single family home, (B) automatically terminate if no owner of the one-family dwelling occupies the one-family dwelling or the accessory apartment as his or her principal residence, (C) automatically transfer with ownership of the one-family dwelling with all conditions of approval including the condition the dwelling or accessory apartment remain owner occupied.

(k) No apartments shall be permitted in any residential district except in accordance with the provisions of this Accessory Apartment Zoning By-Law or as otherwise specifically authorized by the Table of Use Regulations, Table 1. All Accessory Apartments which meet the above conditions must obtain the final approval of the Town of Holden Building Commissioner.

(l) All Accessory Apartments which are affordable as defined by the income limits placed by the Department of Housing and Community Development may be included in the affordable housing inventory upon agreement of the applicant and resident of the accessory apartment.

### (3.0) Application Procedure



- (3.1) The application for the submission and approval of a Special Permit for an Accessory Apartment in the owner-occupied one-family dwelling shall be the same as prescribed in Sections XI-J-1 and XI-J-2 of the Holden Zoning By-Law, except that said Special Permit application shall include a notarized letter of application from the owner(s) stating that (a) he/she/they will occupy one of the dwelling units on the premises.

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (h)

- (3.2) Upon receiving a Special Permit, the owner(s) must file on the subject property a Declaration of Covenants in the form attached with appropriate insertions at the Worcester County Registry of

Deeds or the Worcester Registry District of the Land Court, as applicable. A time-stamped copy of the recorded Declaration shall be provided to the Board of Appeals and to the Building Inspector as a precondition to the issuance of any building permit.

- (3.3) In order to provide for disabled and handicapped family members, the Board of Appeals may allow reasonable deviation from the stated conditions of subsection 2.0 above where necessary to install features that facilitate access and mobility for disabled persons.

- (4.0) Transfer of Ownership of a Dwelling With an Accessory Apartment

- (4.1) No successor in title to a one-family dwelling for which an Accessory Apartment Special Permit shall have been granted unless a new Declaration of Covenants is recorded or registered as required by subsection (3.2) requiring the owner to reside in the unit.

- (5.0) Accessory Apartments in Existence Before the Adoption of an Accessory Apartment By-Law

- (5.1) Apartments or conversions existing on the effective date of this Accessory Apartment Zoning By-Law, for which an acknowledgement of applicable zoning restrictions was recorded or registered prior to such effective date, may continue to be used as contemplated by the acknowledgement. As used herein, an “acknowledgement of applicable zoning restrictions” means a writing signed by the owners of the premises which acknowledged that the premises could not be used as a two-family dwelling.
- (5.2) Apartments or conversions existing on the effective date of this Accessory Apartment By-Law which are not protected by subsection 5.1 may only be continued if an Accessory Apartment Special Permit is obtained and if all of the preceding provisions of this Accessory Apartment By-Law are satisfied.

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (h)

- (5.3) Any Special Permit previously granted for an Accessory Apartment restricting occupancy to a blood relative can be transferable to a new occupant provided all provisions of this bylaw are satisfied. A new covenant must be recorded requiring the owner of the single family home to reside in the main dwelling unit or apartment.

i. Mixed Use Development

(1) Intent. The intent of Mixed Use Development is to provide for the coordinated and mixed development of residential, commercial and business office-professional uses in certain sections of the community; to foster a classic village appearance and development; to make such mixed uses accessible to pedestrian traffic while improving the appearance of the community; and to encourage expanded use of the Main Street corridor.

(2) A Mixed Use Development shall require a Special Permit from the Planning Board pursuant to Section XI.J. All uses permitted in the C and BO-P zoning districts are permitted in a Mixed Use Development except as set forth in Section XI.J.3.i.(3). Notwithstanding the provisions of Section V.F. Table 1 USE REGULATIONS the following uses are permitted in a Mixed Use Development:

- (a) two, three and four family dwelling
- (b) duplex
- (c) townhouse

(3) The following uses are prohibited in a Mixed Use Development notwithstanding the provisions of Section V.F. Table 1 USE REGULATIONS:

- (a) an automobile repair service and garages
- (b) construction industry including supplies
- (c) open storage of construction equipment
- (d) adult book store, adult dance club or adult theaters

(4) Dimensional Requirements

- (a) The Dimensional requirements of the zoning district in which the Mixed Use Development is located, as set forth in Section VI, Table 2, shall apply, except as hereinafter provided.
- (b) Residential use in a Mixed Use Development shall not exceed three (3) dwelling units, notwithstanding Section V.F.

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (i)

TABLE OF USE REGULATIONS regarding residential development, and shall not exceed fifty percent (50%) of the total gross floor area of the Mixed Use Development.

(c) The minimum lot area for a Mixed Use Development shall be computed as follows:

- (i.) If the residential use is located in the same building as the commercial/business office-professional use, the minimum lot area for the Mixed Use Development shall be that required for the commercial/business office-professional use, and no increase in the minimum lot area shall be required due to the residential use.
- (ii.) If the residential use is not located within the same building as the commercial/business office-professional

use, the minimum lot area for the Mixed Use Development shall be the minimum lot area for the commercial/business office-professional use, plus 3,500 square feet for each dwelling unit.

- (iii.) Parking shall be provided for each use in the Mixed Use Development in accordance with the requirements of Section VIII, Table 4, but may be reduced by the Planning Board in accordance with the provision of Section VIII.B.5 in connection with the issuance of a special permit pursuant to Section XI.J.3.i. (2)

j. Affordable Housing By law

This section is adopted pursuant to Chapter 40A, Section 9 of the General Laws and as a Local Initiative Program under 760 CMR 45 to encourage various housing types for various ages and income levels and create affordable housing, to help people who have lived and work in the Town of Holden and have been unable to obtain suitable housing at a reasonable price, and to maintain a stable economy by promoting the diversity of income groups who provide necessary and essential services to the community.

The Planning Board may issue a special permit which allows an increase in density of a residential development through a partial relaxation of the area requirement in the Table of Area Regulations in accordance with procedures described below and provided a minimum of 15% of the dwelling units developed on the subject property are to be sold and maintained at affordable prices.

SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (j)

("Affordable Units") according to standards described in this by law. The Affordable Units shall be decent, safe and sanitary housing and shall be restricted for occupancy by household of low or moderate income. For purposes of this bylaw, "Low or Moderate Income" shall mean a household income which does not exceed 80% of the area median income for the Town based on household size as determined by the U.S. Department of Housing and Urban Development.

- (1) Number of Affordable Units: The number of Affordable Units allowed in excess of dwelling units permitted in the underlying zoning district shall be determined by the Planning Board, pursuant to the project approval requirements of this bylaw. In no case, however, shall the density increase for a project exceed one (1) unit per acre from the density requirements set forth in Section VI Area Regulations. The calculated increase in density will not consider the use of

unbuildable land area. Unbuildable land area is considered to be wetlands, area within the 100 year flood plain as represented on the FEMA Maps, and areas with slopes in excess of 15%. The increase in density can be calculated by taking the total lot size and subtracting the unbuildable area, then subtracting an additional 10% of the remaining buildable area to represent any proposed roadways if applicable.

- (2) Design Standard: All applications for a special permit hereunder shall include design standards for the proposed development to insure conformity and compatibility among all units. Affordable Units shall be disbursed evenly throughout the development. Other requirements for design shall follow the other requirements of this zoning bylaw. The density controls of this bylaw may be modified upon a finding by the Planning Board that such modification creates no adverse impacts on health, safety, and welfare of the community, and is found to be in the public interest because of the high quality of design that would result, and does not denigrate from the intent of the by law. Applicants must also submit for approval a schedule of construction that provides for the delivery of the Affordable Units concurrent with the delivery of market-rate units.

Architectural drawings of all housing styles must be provided with the application and shall be subject to the approval of the Planning Board.

No more than eight units will be permitted in one building.

### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (j)

All roads, driveway, utilities and drainage facilities within the Affordable Housing Development shall be designed and constructed in conformance with the Town of Holden Subdivision Control Regulations. The Planning Board may waive said rules and regulations if it determines that such action will advance the intent of these regulations.

The minimum required setbacks for the underlying zone will be applicable to the project lot perimeters though a greater buffer area may be required by the Planning Board.

- (3) Long Term Affordability and Criteria: To qualify for a special permit pursuant to this bylaw, the applicant/developer must demonstrate to the satisfaction of the Planning Board that the proposed Affordable Unit(s) satisfy all of the following criteria:
- (a) Income and Asset Limits: For tenants and purchasers household income shall not exceed 80% of median income for the Town based on household size as determined by the Massachusetts Department of Housing and Community Development. For tenants of rental housing and purchasers of ownership housing there shall be reasonable household asset limits; asset limits shall not be so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.
  - (b) Affordability of Rental Units: Monthly rents payable by a household shall not exceed 30% of the monthly income of a household earning 80% of median income for the Town based on household size. If services are included in the month rent (e.g. assisted living projects), and monthly rent exceeds the limit set forth in the previous sentence, the services must be clearly defined and sufficiently comprehensive to justify the additional percentage of household income that must be devoted to rent. In the event a unit receives a state, federal or local subsidy, maximum rent may be as provided in the rent subsidy program so long as the tenant share of rent does not exceed the maximum set herein as determined by the Massachusetts Department of Housing and Community Development.
  - (c) Affordability of Ownership Units: Initial purchase prices and resale prices shall be established so that households are not required to spend more than 30% of the income of a household earning 80% of area median income for annual debt service on a mortgage (at 30-year fixed-interest rates at the time of initial sale), taxes, insurance and condominium or homeowners fees with no more than five percent (5%) down-payment, including any required entrance deposit.
  - (d) Use Restriction: There shall be a Use Restriction imposed upon the title to every Affordable Unit at the time of initial sale of the unit. For Rental Housing, the developer shall covenant to the Town, as a condition of the special permit that it will operate and manage the Affordable units in accordance with the provision of this bylaw and shall provide for effective monitoring, administration and enforcement during the term of affordability. The Use Restriction imposed shall include the conditions of the Special Permit, if any, as well as the following: (i) a local public or quasi-public entity, such as the Holden Housing Authority, must be a holder of the restriction with the right and the obligation to enforce it during the

term of affordability; (ii) the restriction must provide for effective monitoring, and enforcement by the local or quasi-public holder which may enter into a construct for monitoring services with a private entity experienced in affordable housing operation, but which retains final responsibility for ensuring compliance with the restriction; (iii) the restriction shall provide for selection of eligible tenants of rental units or owners of ownership units in a fair and reasonable manner in compliance with fair housing laws, and such tenants and owners shall be required to occupy the units as their domiciles and principal residences; (iv) absent demonstrable need for a shorter term of affordability, there shall be a term of perpetuity (provided that the Use Restriction of an Accessory Apartment maybe conterminous with the ownership of the dwelling to which it is accessory).

- (e) Nondiscrimination in Tenant or Buyer Selection: There shall be a specific prohibition of discrimination on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by laws in the leasing or sale of any Affordable Unit.
- (f) Successors in Title: The restrictions imposed pursuant to paragraphs (d) and (e) above shall be recorded/registered in the applicable Registry of Deeds or Registry District and shall run with the land and be binding on all successors in title to the Affordable Unit.

#### SECTION XI ADMINISTRATION AND ENFORCEMENT J.3. (j)

- (4) Project Approval Requirements: The Planning Board shall review an application for a special permit pursuant to this bylaw and may approve the special permit if, in the Board's sole discretion:
  - (a) The Board is satisfied that the applicant has conformed to all guidelines set forth and will produce the Affordable Unit (s) required under this bylaw.
  - (b) The proposed development site plan is designed to provide a development that is consistent with the existing area and natural features.
  - (c) The Board makes a finding that the increased density and/or relaxation of the requirements set forth in the Table of Area Regulations does not have a detrimental effect on the character of the neighborhood.

- (d) The Board has obtained a determination from the Massachusetts Department of Housing and Community Development or has reason to believe that the Affordable Units to be created by the applicant will count towards the Town's Subsidized Housing Inventory.

### **XI J.3. (k) Registered Marijuana Facilities:**

- A. Purpose: To provide for the placement of Registered Marijuana Facilities (RMFs), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMFs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMFs. The Planning Board shall be the Special Permit Granting Authority

- B. LOCATIONS

RMFs may not be located within 300 feet of the following.

- (1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- (2) Library;
- (3) Playground;
- (4) Public Park;
- (5) Youth center;
- (6) Public swimming pool; or
- (7) Video arcade facility.

Section J.3.(k) cont.

The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed RMF.

- C. SUBMISSION

In addition to the submission requirements in J.3.g of this section application submissions must include;

- 1. Copy of registration as an RMF from the Massachusetts Department of Public Health ("DPH")



2. A floor plan, which includes a description of the functional areas of the RMF, including preparation areas
3. a description of the security measures, including employee security policies, approved by DPH
4. a copy of the emergency procedures approved by DPH
5. a copy of the policies and procedures for patient or personal caregiver home delivery approved by DPH
6. a copy of the policies and procedures for the transfer acquisition or sale of marijuana
7. a copy of the proposed waste disposal procedures
8. a description of any waiver from the Department of Public Health Regulations

**D. CONDITIONS:**

1. The permit holder shall file a copy of any Incident Reports required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation. Hours of Operation, including dispatch of home deliveries.
2. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMF. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
3. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMF with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMF.

**Section J.3. (k) cont.**

4. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
5. The permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the permit, an application to renew the permit must be submitted at least 120 days prior to the expiration of the permit.
6. The permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMF.
7. The permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

8. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the RMF or the expiration or termination of the permit holder's registration with DPH.
  9. No outside storage of marijuana, related supplies or educational materials is permitted.
- C. **Exemption from RMF Special Permit Requirement:** RMFs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 7.4.
- D. **Prohibition Against Nuisances:** No use shall be allowed under to create a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- E. **Severability:** The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.
- K. **VARIANCES.** The Board may grant variances from the provisions of this bylaw including without limitation variances authorizing uses or activities where owing to circumstances relating to the soil conditions, shape, or topography of such land or structures especially affecting such parcel or such building but not affecting generally the Zoning District in which it is located. A literal enforcement of the provisions of this Zoning Bylaw would involve substantial hardship, financial or otherwise, to the appellant and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this

Section J.3. (k) cont.

Zoning Bylaw. In authorizing such variance, the Board may impose limitations both of time and use as permitted by law, but excluding any conditions, safeguards, or limitations based on continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of granting such variances, they shall lap and may be reestablished only after notice and new hearing.

SECTION XII

AMENDMENT VALIDITY AND EFFECTIVE DATE

- A. AMENDMENT: This bylaw may be amended from time to time in accordance with Section 6 of the Zoning Enabling Act. During the amendment procedures subdivision plans in process of review by the Planning Board under the subdivision Control Law shall be subject to the provisions of the Zoning Enabling Act.
- B. VALIDITY. The invalidity, unconstitutionality, or illegality of any provision of this bylaw or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality, or legality of any other provision or boundary.
- C. EFFECTIVE DATE. This bylaw shall take effect upon the date resulting from the procedure provided for in Section 32 of Chapter 40 of the General Laws of the Commonwealth of Massachusetts.
- D. Any references herein to the Zoning Enabling Act shall mean the Zoning Act as now existing and hereafter amended.

## SECTION XIII

### FLOOD PLAIN DISTRICT REGULATIONS

#### I. FLOOD PLAIN DISTRICT

The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Holden Flood Insurance Rate Maps, (FIRM), and the Flood Boundary and Floodway Maps, dated July 2, 1981, on file with the Town Clerk, Planning Board and Building Inspector. These maps as well as the accompanying Holden Flood Insurance Study are incorporated herein by reference.

#### II. DEVELOPMENT REGULATIONS

The following requirements shall apply within the Flood Plain District:

- A. With Zone A, where the base flood elevation is not provided on the FIRM, any applicant for a building permit under the State Building Code shall obtain any existing base flood elevation data and any other available data shall be reviewed by the Building Inspector to determine if any structure being erected, altered or improved complies with the elevation or flood proofing requirements, as appropriate, of the State Building Code.
- B. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:

1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the owner of the land affected or his agent, or by any applicant for a building permit under the State Building Code, stating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
2. Any encroachment meeting the above standards shall comply with the flood plain requirements of the State Building Code.
3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### SECTION XIII FLOOD PLAIN DISTRICT REGULATIONS (cont.)

4. For all new construction and substantial improvements fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

## SECTION XIV

### VILLAGE REGULATIONS

#### A. DEFINITION

A Village shall be an area developed as an entity and occupied by a balanced mix of land uses, as allowed by Village Special Permit granted by the Zoning Board of Appeals after receipt of the recommendations of the Planning Board.

#### B. INTENT

The intent of Village zoning is to allow a variety of land uses, within a planned development of localized density, which integrates the different elements such that each complements the function of each other use, thus improving the quality of the Village as a whole.

Such a symbiotic effect depends on careful integration of the mixed land uses into a coherent Village. To ensure a beneficial mix of uses, the following requirements must be met, the Village Site Plan must be approved, and a Village Special Permit must be issued.

#### C. REQUIREMENTS

##### I. Landuse

A Village development shall include a minimum of three of the following permitted land uses, one of which shall be residential, subject to other Village regulations:

- a) Residential
- b) Restaurant
- c) Theater or Auditorium
- d) Recreational Facility
- e) Parking (open lots, and attached or detached single or multi-space garages)
- f) Business and Professional Office
- g) Retail Establishment (not including production facilities, but allowing on-site assembly)
- h) Personal Service Business
- i) Hotel or Motel
- j) Community Facility

## SECTION XIV VILLAGE REGULATIONS (cont.)

### C. 2. Proportional Balance of Landuse

To ensure a balanced mix of integrated land uses, the following proportional linkage requirements shall be applied:

#### a) Residential

Residential uses shall be balanced by other permitted uses by application of the following formulae:

- i The minimum total area (sq. ft.) of non-residential uses shall be no less than 150 sq. ft. multiplied by the total number of residential bedrooms.
- ii The minimum total area (sq. ft.) occupied by retail establishments, personal service businesses, and business & professional offices shall be no less than 100 sq. ft. multiplied by the total number of residential bedrooms.
- iii The minimum total area (sq. ft.) of residential uses shall be no less than 40% of the total floor area (sq. ft.) of Village building uses.

#### b) Open Space

Village Open Space shall be provided for recreational and social opportunities, to enhance Village appearance, and for access to areas of natural beauty. Open Space shall be considered to be that portion of the Village not covered by new or existing buildings, accessory structures, parking spaces, or roadways; and may include courts, yards, exterior paths, plantings, greenery, and covered or interior atria which are freely accessible and not serving an essential building function, characterized by natural lighting.

At least 75% of the required Village Open Space shall not be natural wetlands, or land having slopes exceeding 15%.



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## SECTION XIV VILLAGE REGULATIONS (cont.)

- b. The minimum allowable area (sq. ft.) of Village Open Space shall be determined by application of the following formulae:

$$i \quad F = \frac{F - F}{T \quad R \quad P}$$

$$ii \quad F = \frac{.2(D) + .3(D) + .7(D)}{R}$$

$$iii \quad F = P / 1000$$

Where:

F = The minimum fraction of the gross Village area set aside  
T for Open Space

F = Residential based open space requirement  
R

F = Abutting open space credit  
P

A = The number of residential units in renovated existing buildings

B = The number of residential units in townhouses

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C = The number of residential units in multi-family buildings

D = The total number of residential units

P = The number of acres of Open Space abutting the Village, which is fully and freely accessible to the public for the purposes of recreation or conservation, such as state, town, or conservation society owned forests, parks, lakes or ponds, recreational fields, etc.

C. 2.(c) Public Access

- i The minimum allowable portion of the required open space in a Village which shall be open and accessible for free public use and enjoyment shall be determined by application of the following formula:

SECTION XIV VILLAGE REGULATIONS (cont.)

$$P = O \times N / T$$

A

Where: P = Minimum allowable area (sq. ft.) of publicly  
A accessible open space.

O = Required are (sq. ft.) of Village open space

= F x gross Village area (sq. ft.)  
T

N = Total net floor area (sq. ft.) of Non-residential  
uses

T = Total floor area (sq. ft.) of all Village  
building uses

- ii No portion of the required publicly accessible open space in a Village shall contain land with slopes exceeding 15%, unless such slope is demonstrated to be usual or appropriate to the public recreational use of that portion of the publicly accessible land.

d) Restaurants

Each 100 sq. ft. of restaurant use shall be balanced by a minimum of 350 sq. ft. of other combined non-residential uses, as listed in Section XIV, c - 1c) - 1j)

e) Hotels or Motels

The total number of hotel or motel rental rooms in a Village shall not exceed the total number of residential units.

C. 3. Area Regulations

All Area Regulations pertain to the exterior dimensions of the total Village area.

a) Minimum Required Village Area

The minimum required Village area shall be the greater of i or ii:

- i Five acres
- ii 10,000 sq. ft., plus 3,500 sq. ft. for each residential unit more than two

SECTION XIV VILLAGE REGULATIONS (cont.)

b) Minimum Village Width

The minimum Village width shall be 200 feet.

c) Minimum Village Frontage

The minimum Village frontage shall be 150 feet.

d) Minimum Village Yards

i Front: 30 feet

ii Side : 15 feet

iii Rear : 15 feet

iv The minimum yard requirements shall not apply to existing buildings and existing lot lines of a Village

v New lot lines for a Village shall not increase the non-conformity of lot-line setbacks to existing buildings.

4. Height, Bulk & Appearance Regulations

a) Maximum Building Coverage

The total area covered by all the buildings within a Village shall not exceed 40% of the total Village area.

b) Maximum Permitted Height

i New Construction: The maximum permitted height of buildings shall be 35 feet, measured from average finished grade adjacent to the building.

ii Existing buildings: Existing building heights shall be accepted within a Village; and renovations of existing buildings within the

## SECTION XIV VILLAGE REGULATIONS (cont.)

Village shall be allowed to increase building height by no more than ten feet.

c) Minimum Residential Floor Area

The minimum residential floor area for each unit within a Village shall be 768 sq. ft.

d) Townhouse Residential Buildings

- i Shall have separate entrances for each dwelling unit
- ii Shall have no continuous facades exceeding 100 feet
- iii Shall have a minimum offset of five feet, to interrupt continuous facades within an individual building
- iv Shall have a minimum of twenty feet between exterior walls of adjacent buildings
- v Shall have a minimum average unit width of twenty feet, and a minimum unit width of sixteen feet, measured from center to center of common side walls.

e) Multi-Family Residential Buildings

The maximum number of individual dwelling units contained within a single multi-family Village residential building shall be twelve.

5. Signs & Billboards

- a) All signs and billboards within a Village shall conform to the existing Zoning Bylaw regulations in Section VII, A, B, C & D.

- b) All signs mounted on, attached to, or pertaining to Village residential buildings or uses shall conform to the existing Zoning Bylaws, Section VII, E.
  
- c) All non-residential signs and billboards within a Village shall conform to the existing Zoning Bylaws Section VII, F1), 2), 3a) 3e) & 4, with the substitution of the existing words: "for each lot street frontage" with the new words: "for each individual business, office, or separate establishment", and with the prohibition of individual standing signs for individual businesses or establishments.

## SECTION XIV VILLAGE REGULATIONS (cont.)

- d) All Village signs for non-residential use, and residential signs described in the existing Zoning Bylaws Section VII, E 1), 2), 5), & 6) shall be both similar in appearance and consistent in design throughout the Village. Guidelines for signage shall be included in the application for Village Special Permit.

### 6. Off-Street Parking & Loading Regulations

#### a) Minimum Parking Requirements by Use

- i Residential: One and one half spaces per one unit
- ii Hotel or Motel: One and one half spaces per rental room
- iii Restaurant, Theatre, or Auditorium: One space per four seats of total seating capacity
- iv Private Recreational Area: Sufficient parking for participants & spectators, as approved by Village Special Permit
- v Other permitted Uses: One space per 200 sq. ft. net occupied floor area, excluding cellars, unenclosed porches, attics, common areas, public spaces, utility spaces, and any space intended and designated for HVAC equipment

#### b) Total Village Parking Requirements

- i A Village shall provide sufficient parking spaces to conform to each of the above listed use determined parking requirements.
- ii Parking spaces apportioned to different uses may be combined through Village Special Permit approval, where non-simultaneous use can be demonstrated, up to a maximum adjustment of 25%.

- iii Village parking shall be allowed only with a Village Parking Permit, to be issued initially by the Planning Board with the Village Special Permit, then renewed by the Planning Board every three years.

7. Utilities

- a) All utilities within a Village shall conform to the Sub-division Control Regulations and requirements for utilities.
- b) All Villages shall be connected to the Town sewer system.



## SECTION XIV VILLAGE REGULATIONS (cont.)

### 8. Streets

All proposed public streets or ways to be located within a Village shall conform to the Subdivision Control Regulations pertaining to public streets and ways.

### D. VILLAGE SPECIAL PERMIT

#### I. Administration

- a) The Village Special Permit Granting Authority is the Zoning Board of Appeals, which shall include the Planning Board in joint review and for purposes of recommendation which recommendation shall not be binding on the Zoning Board of Appeals.
- b) The application for a Village Special Permit shall include a Village site plan, and may include additional informational materials. Nine copies of all submissions are required.
- c) The application and administration procedures for a Village Special Permit are as required for a Special Permit as stated in Section XI, J herein, and in the Mass. General Laws, Chapter 40 A.
- d) A Village Special Permit is a pre-requisite for application for a building permit for work within a Village.

#### 2. Village Site Plan

- a) A Site Plan for development within a Village shall be submitted for approval by Village Special Permit, with the application for a Village Special Permit.

- b) The Village Site Plan shall satisfy the informational requirements for a Definitive Plan, as set forth in the existing Subdivision Control Regulations.
- c) The Village Site Plan shall also include the following additional information:
  - i The locations of the buildings, parking spaces, and open spaces
  - ii The proposed Village landuses, and sq. ft. of area devoted to each.

## SECTION XIV VILLAGE REGULATIONS (cont.)

### 3. Village Site Plan Approval

- a) Village Site Plan approval is a prerequisite for granting a Village Special Permit for development within a Village, to satisfy certain requirements and concerns.
- b) Village Site Plan approval shall be predicated on its compliance with the Village district Zoning Bylaw Regulations and requirements, as set forth in section XIV herein.
- c) The Zoning Board of Appeals also shall impose in addition to the conditions specified for permitted uses, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this bylaw, as may be indicated by application and consideration of the Village General Review Standards, and by recommendations of the Planning Board.

### 4. General Review Standards

In reviewing each application for a Village Special Permit, the Zoning Board of Appeals and the Planning Board shall study the Village Site Plan and associated materials with reference to the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally, including its amenities.

In addition to compliance with all of the Village requirements set forth herein, the Zoning Board of Appeals and the Planning Board shall look for:

- a) Conformance with the intent of a Village, as set forth herein.
- b) Traffic safety and ease of access at street and highway entrances and exits of driveways, and internal private and public ways, taking into account grades, sight distances, and distances between such driveway entrances, exits, and the nearest existing street or highway intersection.

- c) Safety and adequacy of driveway layout and sufficiency of access for service vehicles such as electricity, gas, fuel, telephone, laundry, rubbish removal, water, sewer, fire police, ambulance, or other routine or emergency vehicles.
- d) Safe and adequate means of disposal of sewage, of garbage and rubbish, safety and adequacy of water supply and distribution, and of fire-fighting facilities on the site.

**SECTION XIV VILLAGE REGULATIONS (cont.)**

- e) Assurance of positive storm-water drainage and snow-melt run-off from all driveways and from all parking and loading areas in the Village.
- f) The distribution of open space.
- g) A reasonable schedule for timely execution of the proposed Village development.
- h) Effective integration of the various landuses in a coherent Village.

**E. CERTIFICATE OF VILLAGE COMPLIANCE/OCCUPANCY**

- 1. The Building Inspector shall issue the Village Certificate of Compliance/ Occupancy, as a prerequisite for occupancy of a Village.
- 2. The Certificate shall approve and confirm that construction and renovation within the Village are substantially in compliance with the approved Village Site Plan and Village Special Permit conditions.
- 3. Certificates of Compliance/Occupancy may be issued separately for sequential phases of Village development.

## SECTION XV

### PHASED GROWTH ZONING BYLAW

#### 1) Intent and Purpose

1.0 Whereas, the Town of Holden wishes to encourage a steady manageable growth rate in the community and reduce extreme fluctuations in the growth rate, and;

Whereas, the Town desires to relate the timing of future residential development to the community's ability to provide public services to such development, including adequate water supply amounts and water supply pressure for the purposes of domestic usage and fire protection usage, and;

Whereas, the Town desires to protect the Community's character, and the health, safety, welfare and convenience of its residents, and:

Whereas, the growth rate in the Town of Holden in recent years threatens to outstrip the Town's ability to provide water and other community services such as fire and police protection and adequate educational facilities:

Now, therefore the Town of Holden hereby adopts the following bylaw which shall be issued unless in accordance with this bylaw.

#### 2) Regulations

2.0 No building permit for a new residential dwelling unit or units shall be issued unless in accordance with this bylaw.

This bylaw shall apply to all definitive subdivision plans, divisions of land pursuant to M.F.L. Chapter 4I, Section 81P (hereafter called "A-N-R division,") variances and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for all purposes of this section if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this bylaw.

## 3) Planned Growth Rate

3.0 All authorizations shall count toward the planned growth rate permitted by this bylaw. Building permits shall not be issued under any development schedule approved under Section 5 during periods when said building permit issuance would result in authorizations of more than 200 dwelling units over a 24-month (two year) period.

## SECTION XV PHASED GROWTH ZONING BYLAW (cont.)

3.1 For the purposes of implementing the 200 dwelling unit limitation, the Building Commissioner shall on the first of each month total the number of building permits issued during the previous 24 months. If the number of dwelling units for which new building permits have been issued during the previous 24 months meets or exceeds 200 in number, then the Building Commissioner shall not issue building permits for any additional dwelling unit or units in the then current month, except as permitted by Section 3.2.

3.2 In a single development where the number of new dwelling units are 1 to 3 in total, building permits may be issued even if the 200 limit has been reached. Once issued, these exempt building permits shall be counted in calculating the 200 building permit limit, as noted in Section 3.0.

## 4) Development Schedule

4.0 Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

Number of New Units

In Developments

Dwelling Units/Year\*

1 - 3

100%

4 - 10

Up To 75%

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11 - 20	Up To 33%
21 - 40	Up To 24%
41+	Up To 20%

\*Percent of dwelling units in the development for which building permits may be authorized each year. The yearly schedule shall commence from the date of the Planning Board signing of the definitive subdivision plan or A-N-R division plan or the granting of a special permit or variance if applicable, for the development.

4.1 Once a development schedule for a single development is approved in accordance with Section 5, building permits shall not be issued in excess of said schedule, subject to the 200 dwelling unit cap detailed in Section 3.I.

### 5) Requirements

5.1 All Definitive Subdivisions, A-N-R divisions, Special Permits and Variances shall include a proposed development schedule by the applicant.

## SECTION XV PHASED GROWTH ZONING BYLAW (cont.)

5.2 Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Board of Appeals, as appropriate), shall be recorded at the Worcester County Registry of Deeds and shall have no effect until recorded.

5.3 In the case of a cluster subdivision, a development schedule shall be approved by the Planning Board at the time of Definitive Subdivision Plan approval. If the plan requires modifications to the development schedule based upon Board of Appeals actions or conditions, the applicant shall return to the Planning Board for approval of a revised development schedule.

### 6) Zoning Change Protection

6.0 The protection against zoning changes as granted by Mass. General Law Chapter 40A, Section 6 shall, in the case of a development whose completion has been constrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw.



## AQUIFER PROTECTION DISTRICT BY LAW

It is proposed to replace Chapter 7.1 Section XVI the “Aquifer Protection District” Bylaw by deleting it in its entirety and replacing it as follows:

### SECTION XVI

#### AQUIFER PROTECTION DISTRICT

##### 1) Intent and Purpose

Whereas, the Town of Holden wishes to safeguard and protect town sources of water supply by preserving and maintaining the filtration and purification function of the land, the groundwater table and the purity of groundwater supplies and;

Whereas, the groundwater supplies underlying Holden are the primary sources of Holden's existing and future drinking water supply, and;

Whereas, the groundwater aquifers are integrally connected with, and flow into, surface waters which constitute significant recreational and economic resources of the town, and;

Whereas, accidental spills and discharges of petroleum products and other toxic and hazardous materials and sewage discharge have repeatedly threatened the quality of such groundwater supplies and related water resources throughout towns in Massachusetts, posing potential public health and safety hazards and threatening economic losses to the affected communities, and;

Whereas, the groundwater aquifers are recharged by precipitation falling upon the land surface directly above the aquifers, and as more of that land surface is rendered impervious by development, recharge may decrease, threatening the eventual inability of the aquifers to meet the Town's demand for water;

Now, therefore the Town of Holden hereby adopts the following bylaw which shall be known as the "Aquifer Protection District" zoning by-law.

## 2) Aquifer Protection District

The Aquifer Protection District shall be considered as overlapping other zoning districts. This overlay district shall apply to all new construction reconstruction or expansion of existing building and new or expanded uses. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this district.

For the purposes of this district, there are hereby established within the town certain aquifer protection areas, consisting of aquifers and/or aquifer recharge areas. Aquifers and aquifer recharge areas are defined by standard geologic and hydrologic investigations which may include drilling observation wells, utilizing existing boring data and stratigraphic profiles, conducting seismic surveys or other geophysical techniques, performing pumping tests, water sampling and geologic mapping.

The Aquifer Protection District includes the aquifer itself, the land above the aquifer and the aquifer's significant areas of recharge consisting of:

2.1 The boundaries of this district are shown on a map entitled "Aquifer Protection District," dated March, 2011. This map is hereby made a part of this bylaw and is on file in the Office of the Town Clerk.

2.1(A) Zone I - shall consist of a 400' radius around municipally owned and/or currently proposed water supply wells and requires the most stringent protection. Zone I includes existing and currently proposed public water supply wells or wellfields as required by the Massachusetts Department of Environmental Protection in 310 CMR 22.00.

2.1(B) Zone II - Area of influence of all existing and proposed (confirmed by long-term pump test) municipal wells within the Town. The Zone II delineations for existing and currently proposed public water supply wells or wellfields required by the Mass. Dept. of Environmental Protection (DEP), as set forth in 310 CMR 22.00 and the "Guidelines and Policies for Public Water Systems".

2.1(C) Zone III - Major aquifers and primary areas of recharge which contribute to Zone II.

### 3) Boundary Disputes

In any instance where a property owner(s) disputes the inclusion of their property in the Aquifer Protection District, the burden of proof shall be upon the owner(s) of the land in question to show where the boundaries should be properly located. The owner(s) may engage a professional hydrogeologist or registered professional engineer or geologist with experience in hydrogeology to determine if that property should be included in the Aquifer Protection District based on the definition and purposes of the district and the characteristics of the property. Changes to Zone II and Zone III boundaries require approval from the Massachusetts Department of Environmental Protection.

### 4) Use Regulations

4.1 Allowed uses are subject to the underlying zoning district and the following uses are allowed within the Aquifer Protection District:

#### 4.1.1. Zone I

Only land uses which are permitted by the underlying zoning district at the time of adoption of this bylaw are permitted, any future zoning changes to the underlying zoning district which result in an increase in permitted or allowed land use activities or density shall not take effect within this overlay district. The following land uses are permitted:

- a. Conservation of soil, water plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Maintenance repair and enlargement of any existing structure provided there is no increase in impermeable area, subject to Section 4.2 of this bylaw
- f. Residential development, subject to Section 4.2 of this bylaw
- g. Farming gardening, nursery, conservation, forestry harvesting, and grazing, subject to Section 4.2 of this bylaw.
- h. Construction, maintenance, repair and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

#### 4.1.2. Zone II the following uses are permitted:

- a) Conservation of soil, water, plants and wildlife.

- b) Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
- c) foot, bicycle and/or horse paths and bridges.
- d) Normal operation and maintenance of existing dams, splash boards, and other water control, supply and conservation devices.
- e) Maintenance, repair and enlargement of any existing structure provided there is no increase in impermeable area, and subject to Section 4.22 of this bylaw.
- f) Nonintensive agricultural uses (pasture, light grazing, hay), gardening, nursery, conservation, forestry and harvesting provided that fertilizers, herbicides, pesticides and other leachable materials and soil conditioners, as defined in M.G.L. Chapter 128, Section 64, are stored within a structure designed to prevent the generation and escape of contaminated runoff or leachate. Where the application is being made of fertilizers, pesticides, herbicides or other potential contaminants, groundwater quality monitor test wells may be installed and periodically sampled and tested at the town's expense. Test wells shall be located by a professional geologist, hydrologist or engineer trained and experienced in hydrogeology. Sampling will be conducted by an agent of the Board of Health.
- g) Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
- h) Residential development of single-family dwellings, such that no more than 10% or 2,500 square feet, whichever is less, of the building lot is rendered impervious. Where not serviced by public sewerage, lot size shall be a minimum of 10,000 square feet of lot area per 55 gallons per day of on-site domestic sewage disposal generated, as determined by Title 5 of the State Environmental Code. Where serviced by public sewerage, minimum residential lot size shall comply with the dimensional requirement of the underlying residential zone.
- i) Commercial development (retail shopping, business or professional office) or industrial development (limited to storage of nontoxic, nonhazardous materials) on lots of at least 80,000 square feet in area such that no more than 15% or 2,500 square feet, whichever is greater, of the building lot is rendered impervious; roof, parking and drive runoff shall be recharged on-site using storm water infiltration basins or a similar system covered with natural vegetation with parking and drive runoff discharged to oil/gas trap catch basins with appropriate sumps prior to recharge; and, where not serviced by public sewerage, on-site domestic sewage disposal is less than or equal to 55 gallons per day per 10,000 square feet of lot area; however no more than 20% of a lot shall be rendered impervious.

4.1.3. Zone III: the following land uses are permitted:

- a) All uses permitted in Zone I and Zone II, above.

- b) Residential development of single-family dwellings, such that no more than 10% of the building lot is rendered impervious. Where not serviced by public sewerage, lot size shall be a minimum of 10,000 square feet of lot area per 110 gallons per day of on-site domestic sewage disposal generated, as determined by Title 5 of the State Environmental Code. Where serviced by public sewerage, minimum residential lot size shall comply with the dimensional requirement of the underlying residential zone.
- c) Commercial development (retail shopping, business or professional office) or industrial development (limited to storage of nontoxic, nonhazardous materials) on lots of at least 40,000 square feet in area such that no more than 40% of the building lot is rendered impervious; roof, parking and drive runoff shall be recharged on-site to the maximum extent practicable with parking and drive runoff discharged to oil/gas trap catch basins with appropriate sumps prior to recharge; and, where not serviced by public sewerage, on-site sewage disposal is less than or equal to 110 gallons per day per 10,000 square feet of lot area.
- d) Uses permitted in the underlying districts, subject to Section 4.2 such that runoff waters from constructed impervious surfaces shall be treated and recharged to the groundwater system using the best methods practicable.

4.2. Within the Aquifer Protection District, the following uses are prohibited:

4.2.1. Zone I: the following uses are prohibited:

All uses are prohibited with the exception of those uses identified in 4.1.1. and those permitted in the underlying zoning district on, or before, May 2011. Any increase in use or density of the underlying zoning district shall not be permitted within the boundaries of this overlay.

4.2.2. Zone II the following uses are prohibited:

- a) Landfills and open dumps as defined in 310 CMR 19.006;
- b) Automobile graveyards and junkyards, as defined in M.G.L. Chapter 140B, Section 1;
- c) Landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L. Chapter 21 Section 26 through .53; M.G.L. Chapter 111 Section 17; M.G.L. Chapter 83, Section 6 and 7, and regulations promulgated thereunder;
- d) Facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. Chapter 21C and 310 CMR 30.00, except for:
  - 1. very small quantity generators as defined under 310 CMR 30.000;
  - 2. household hazardous waste centers and events under 310 CMR 30.390;
  - 3. waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;

4. water remediation treatment works approved by DEP for the treatment of contaminated waters.
- e. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- f. Storage of liquid hazardous materials, as defined in M.G.L.Chapter. 21E, and/or liquid petroleum products unless such storage is:
  1. above ground level and on an impervious surface; and
  2. either in container(s) OR above ground tank(s) within a building OR outdoors in covered container(s) OR above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers OR 110% of the largest container's storage capacity, whichever is greater.
- g. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- h. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- i. Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- j. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works.
- k. Discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:
  1. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  2. treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);and
  3. publicly owned treatment works.
- l. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district.
- m. Storage of commercial fertilizers, as defined in M.G.L. c.128, s.64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- n. Any use or application of toxic or hazardous materials, even in small application or as accessory to a nonrelated practice.
- o. Commercial excavation and removal of sand and gravel.
- p. Processing and treating of mixed and quarried raw materials.
- q. Power plant, sewage treatment plant and refuse facility.

4.2.3. Zone III the following uses are prohibited:

- a) Disposal of solid wastes, other than brush and stumps.
- b) The disposal of liquid or leachable wastes other than sanitary domestic wastes or innocuous process wastes.
- c) Stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- d) Automotive service and repair shops, junk and salvage yards.
- e) Car washes.
- f) Dry cleaning establishments, metal plating operations, manufacturing, or chemical or bacteriological laboratories not serviced by public sewerage.
- g) Any other use which involves as a principal or accessory activity the manufacture, storage, use, transportation, treatment, generation or disposal of toxic or hazardous materials.
- h) Processing and treating of mixed and quarried raw materials.
- i) Power plant, sewage treatment plant and refuse facility.

4.3 Within the Aquifer Protection District, the following uses are permitted only by special permit that is subject to the approval of the Zoning Board of Appeals with such conditions as they may attach and subject to Section 4.2:

4.3.1 Zone I

No uses are allowed by Special Permit within the Zone I Area

4.3.2. Zone II the following uses are allowed by Special Permit:

- a) Any use involving the retention of less than 50% of lot area in its natural state with no more than minor removal of existing trees and ground vegetation.
- b) Any use involving as a principal or accessory activity the excavation or removal of greater than 10,000 cubic feet of earth material, consolidated or unconsolidated.
- c) Expansion of existing or nonconforming uses to the extent allowed by the underlying district.
- d) Uses calling for greater impervious cover than prescribed in Section 4.1.2.-h and 4.1.2.-i, provided that plan calls for method of recharging proposed increases in runoff waters.

- e) Non-profit hospital, provided that plan proposes connection to the municipal sewer system.
- f) Public utility except power plant, water filtration plant, sewage treatment plant and refuse facility.
- g) Commercial forestry when not subject to a state approved cutting plan.
- h) Raising and keeping of livestock, horses and poultry, unless otherwise exempt from special permit requirements in accordance M.G.L. Chapter 40A Section 3.
- i) Commercial stables, kennels or veterinary hospitals, unless otherwise exempt from special permit requirements in accordance M.G.L. Chapter 40A Section 3.
- j) Water filtration plant (in underlying R-40 areas, only).
- k) Town equipment garage (in underlying R-40 areas, only).
- l) Restaurants (in underlying R-40 areas, only), if plan proposes connection to the municipal sewer system.
- m) Open storage of construction equipment and structures for storing such equipment.

4.3.3. Zone III the following uses are allowed by Special Permit:

- a) Transportation terminals.
- b) Any principal use involving the sale, storage, transportation of fuel oil or gasoline.
- c) Uses calling for greater impervious cover than prescribed in Section 4.1.3.-b and 4.1.3.-c, provided that plan calls for method of recharging proposed increases in runoff waters.
- d) Any use involving on-site disposal of process wastes from any operation other than normal domestic uses.
- e) Any use (other than a single-family dwelling) with a sewage flow, as determined by Title 5 of the State Environmental Code, exceeding 110 gallons per day per 10,000 square feet of lot area or exceeding 15,000 gallons per day regardless of lot area.
- f) Expansion of existing or nonconforming uses, to the maximum allowed by the underlying district.
- g) Non-profit hospital, provided that plan proposes connection to the municipal sewer system.
- h) Public utility except power plant, water filtration plant, sewage treatment plant and refuse facility.
- i) Commercial forestry when not subject to a state approved cutting plan.



- j) Raising and keeping of livestock, horses and poultry, unless otherwise exempt from special permit requirements in accordance M.G.L. Chapter 40A Section 3.
- k) Commercial stables, kennels or veterinary hospitals, unless otherwise exempt from special permit requirements in accordance M.G.L. Chapter 40A Section 3.
- l) Water filtration plant (in underlying R-40 areas, only).
- m) Town equipment garage (in underlying R-40 areas, only).
- n) Restaurants (in underlying R-40 areas, only), if plan proposes connection to the municipal sewer system.
- o) Open storage of construction equipment and structures for storing such equipment.
- p) Commercial excavation and removal of soil, loam, sand, gravel or any other mineral substances to achieve a final grading greater than four (4) feet above the historical high groundwater table elevation (as determined from new or existing monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey). Substances removed below a grade greater than four (4) feet above the historical high groundwater table must be redeposited within forty-five (45) days of removal to achieve a final grading greater than four (4) feet above the historical high water mark.

### 5.0 Special Permit Issuance Procedures

- 5.1 Each application for a special permit shall be filed with the Zoning Board of Appeals (ZBA) as prescribed in Section XI-J-1 and XI-J-2 of the Holden Zoning By-Law and shall be accompanied by ten (10) copies of the plan. Such special permit shall be granted if the ZBA determines, in conjunction with other town agencies as specified in Section 6.2 below, that the intent of this by-law as well as  
  
its specific criteria are met. In making such determination, the ZBA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed. The ZBA shall explain any departures from the recommendations of the other town agencies in its decision.
- 5.2 Review by other Town agencies. Within 14 days of the special permit application, the ZBA shall transmit one copy each to the Board of Health, Department of Public Works/Town Engineer, Conservation Commission, Planning Board and Water Department for their written recommendations. Failure to respond in writing within 60 days shall indicate approval by said agencies.

5.3. After notice and public hearing, and after coordinating, clarifying and weighing the comments and recommendations of the Planning Board, the Board of Health, the Conservation Commission, the Department of Public Works/Town Engineer, and the Water Department, the ZBA may grant such a special permit provided that it finds that the proposed use:

5.3.1. Is in harmony with the purpose and intent of this bylaw and will promote the purposes of the Aquifer Protection District.

5.3.2. Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area in the town.

5.3.3. Will not adversely affect an existing or potential water supply.

5.3.4. Is consistent in light of existing and probable future development of surrounding areas.

### 6.0 Split Zoning

Where the boundary line of the Aquifer Protection District divides any lot existing at the time such line is established, the regulations established hereunder shall not apply to the portion of such lot located within the Aquifer Protection District, provided such lot's frontage is not located in the Aquifer Protection District.

### 7.0 Enforcement

7.1 Written notice of any violations of this bylaw shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

7.2 A copy of such notice shall be submitted to the Town Planning Board, Board of Health, Conservation Commission, Engineer and/or Department of Public Works, and Water Department. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

### 8.0 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

## SECTION XVII

### WIRELESS COMMUNICATIONS FACILITIES

#### 1) Intent

This section contains specific requirements and restrictions to guide the development of wireless communications facilities in the Town of Holden. The requirements are intended to provide maximum wireless communication coverage as mandated by Section 704 of the Telecommunications Act of 1996, while protecting the general welfare and aesthetic integrity of the Town of Holden. It is the intent of this section to provide for establishment and/or expansion of cellular telephone, mobile radio and personal communication and similar systems within the Town of Holden while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. The Town of Holden has developed this bylaw to:

- Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of wireless communications facilities needed to serve the community.
- Encourage providers to co-locate their facilities on a single structure or site.
- Minimize the location of facilities in visually sensitive areas.
- Site facilities below visually prominent ridge lines.
- Protect historic and residential areas from potential adverse impacts of such facilities.
- Avoid potential damage to adjacent properties from facility failure through engineering and careful siting of facilities.

When considering an application for a new Wireless Communication Facility, great emphasis shall be placed on the proximity of the Wireless Communication Facility to residential dwellings and its impact on these residences and neighborhoods.

#### 2) Definitions - Refer to Section II of the Zoning Bylaws.

#### 3) Site Selection Preferences

These regulations are written to indicate the Town of Holden preferences for facility locations. The following describes, in descending order, the Town's preference for wireless communication facility sites:

- On existing structures such as buildings, communications towers, smokestacks, utility structures and other like structures and facilities.
- In locations where existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
- On government or educational institution structures.
- On new towers in the Industrial and Industrial Quarrying zoning districts.
- On new towers on state or federal land.
- On new towers on municipal land.
- On new towers in Business Office-Professional or Commercial zoning districts.
- On government or educational institution structures in residential zoning districts.
- On new towers in the R-40 residential zoning district.
- On new towers in all other residential zoning districts.

#### 4) Use Restrictions

##### A. Wireless Communication Facilities Other Than a Tower

A wireless communication facility other than a tower shall include wireless communications facilities mounted on erected on or supported in whole or in part by an existing building or structure (such as buildings, water towers, smoke stacks and the like).

A wireless communications facility other than a wireless communications tower may be erected upon the issuance of a building permit from the Holden Building Commissioner. The following restrictions apply to all Wireless Communication Facilities other than towers:

1. Installations on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally consistent with the building. Any equipment associated with the facility shall be located within the building or otherwise camouflaged or screened. No facility shall be closer than 300 feet to the nearest existing residential structure. A lesser distance may be considered by Special Permit through the Zoning Board of Appeals.
2. No facility shall project more than ten feet above the existing roof line of the building, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided such projections do not otherwise violate existing yard dimensions or set-back requirements.
3. Any proposed addition of cells, antennae or panels other than for repair or maintenance shall be the subject of a new application and permit.
4. All building-mounted facilities shall be designed and located so to appear as an integral part of the existing architecture of the building.
5. All Wireless Communication Facilities shall be protected against unauthorized access by the public. Fencing shall be compatible with the scenic character of the neighborhood. Use of razor wire is prohibited.
6. Except as required by the Federal Aviation Administration (FAA), towers shall not be artificially lighted.
7. All Wireless Communications Facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible.

B. Wireless Communication Facility Towers

A wireless communications tower shall include all new monopole and lattice tower facilities. Wireless communication towers may be erected upon the

issuance of a special permit by the Zoning Board of Appeals. The following restrictions apply to all Wireless communication Facility Towers:

1. To the extent feasible, all service providers shall co-locate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users technically practical within a ten-year period.
2. New towers shall be considered only upon a finding by the Zoning Board of Appeals (ZBA) that existing or approved towers cannot accommodate the wireless communication equipment planned for the proposed tower.
3. Tower height shall not exceed one hundred twenty feet measured at the base of the tower, however, the ZBA may waive the height requirement if the applicant can show that an increase in tower height will facilitate co-locating of service providers on a single tower.
4. In residential districts the distance of a tower from the property line shall be a minimum of two (2) times the maximum height of the tower from the nearest lot line, but not less than 300 feet as measured from the base of the tower to the nearest residential structure. A lesser distance may be considered by Special Permit through the Zoning Board of Appeals.
5. The base of the tower shall be a distance of at least equal to the tower's height from any property line of existing structure.
6. Existing vegetation shall be preserved as much as possible.
7. All Wireless Communication Facility Towers shall be protected against unauthorized access by the public. Fencing shall be compatible with the scenic character of the neighborhood. Use of razor wire is prohibited.

8. All Wireless Communication Facility Towers shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. Towers shall be painted or otherwise screened or colored to minimize their visibility to occupants or residents of surrounding buildings.
9. Any proposed extension or addition to an existing Wireless Communication Facility Tower shall require a special permit.
10. No tower or accessory structure shall contain any signs or other devices for advertising.
11. Except as required by the Federal Aviation Administration (FAA) towers shall not be artificially lighted.

### 5) Cessation of Use and Obsolescence

All unused Wireless Communication Facilities and Wireless Communication Facility Towers which have not been used for one year, shall be dismantled and removed at the owner's expense. The ZBA in the case of Wireless Communication Facility Towers and the Building Commissioner in the case of other Wireless Communication Facilities may elect to request that the applicant post a site restoration bond or other form on financial security acceptable to the Town in an amount suitable to cover demolition, removal and disposal of the Wireless Communication Facilities and Wireless Communication Facility Tower.

### 6) Submittal Requirements for all Wireless Communications Facilities

The following items and information are required to be submitted at the time an application is filed:

- A. A report by a professional or radio frequency engineer describing the general design and capacity of any proposed installation including:

- A description of the proposed wireless communication facility and all related fixtures, structures, appurtenances and apparatus, including height, materials, color and lighting.
  - The frequency, modulation and class of service.
  - An evaluation of the feasibility of attaching the proposed facility to existing buildings.
  - Copies of all application permits required for this project and a certification of compliance with the terms and provision of the license issued for this purpose by the Federal Communications Commission.
- B. Site Justification or Appropriateness Statement, including a description of the process to eliminate other potential sites.
- C. Material describing a specific plan for a “balloon” or similar test including the date and time, as well as a rain date and time, suitable to include in the legal notice in the newspaper and for inclusion in the notice of abutters.
- D. A statement indicating how the proposal meets the intents and purposes as outlined in sub-section 1) of this Section XVII.
- E. A locus plan which shall show all property lines, the exact location of the proposed structures, streets, landscape features, residential dwellings, and all buildings within 300 feet of the proposed facility.
- F. Provide information and materials necessary for notification of all parties of interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.



If a Special Permit required, applicable Special Permit information is also required in addition to the above items and information.

### 7) Testing Requirements for Wireless Communications Facilities

#### A. Pre and Post RFR Testing Requirements

Before the facility becomes operational, the applicant shall pay for an independent radio frequency engineer to monitor and evaluate the background levels of RFR around the proposed site. A report of monitoring results shall be prepared by the independent radio frequency engineer and submitted to the Planning Board and Building Commissioner.

After the facility is operational, the applicant/owner shall pay for an independent radio frequency engineer to monitor and evaluate the levels of RFR around the facility site at peak usage times. A report shall be submitted to the Planning Board and the Building Commissioner within 90 days beginning operations, and at annual intervals. All annual reports shall be due July 1 of each year. Such measurements shall be performed by an independent radio frequency engineer and shall state the RFR measurements are accurate and meet FCC regulations. Testing shall be required for all facilities. The RFR shall not exceed FCC regulations.

#### B. Structural Testing Requirements

Facility owner(s) shall pay for a qualified independent structural engineer to perform a structural safety inspection of the facility at least every 2 years and shall deliver a copy of said reports to the Building Commission and the Director of Public Works. All structural safety deficiencies shall be remedied and the Building Commissioner and Director of Public Works notified by the structural engineer within 60 days of the date of the report.

### 8) Severability

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

9) Exclusions

Specifically excluded are communication facilities provided by a governmental agency for the public health, safety or general welfare.

## Section XVIII

### RETIREMENT COMMUNITY

#### Section 1 - Intent and Applicability

The intent of this section is to allow flexibility in development of parcels for housing and related services for retired and aging persons, with particular interest in meeting the needs of residents of Holden. A Retirement Community, as defined herein, may be allowed upon grant of a special permit by the Planning Board.

#### Section 2 - Definition

As used in this by-law, Retirement Community shall mean a development on a parcel of twenty (20) acres or more comprised of a mixture of dwelling unit(s) as defined herein to include Independent Housing and may include a combination of Congregate Housing, Assisted Living Facility(s), and Restorative Care/Skilled Nursing Facility(s) with said dwelling units designed to accommodate the needs of an aged population. A Retirement Community shall operate under common management serving the principal purpose of assisting the elderly in maintaining an independent lifestyle. For those projects comprised of greater than twenty (20) acres, a Retirement Community shall be limited to persons at least one of whom in each household shall have attained the age of fifty-five (55) years. The program of in house resident services offered by a Retirement Community development that includes any combination of Congregate Housing, and/or Assisted Living Facility(s), and/or Restorative Care/Skilled Nursing Facility(s) shall be primarily for the benefit of residents and their guests of the Retirement Community and shall include a majority of the following:

1. Restorative care/skilled nursing\*
2. Transportation services
3. Financial assistance
4. Barber/beautician
5. Medical evaluation/health care maintenance
6. Home health
7. Assisted Care\*
8. Adult day care and respite care services

9. Food services
10. Cleaning services
11. Exercise, recreational, educational and social services
12. Other services, activities and accessory uses incidental to the operation of a Retirement Community

In house services may only be provided to residents and their guests and may not display exterior advertising. The program of in house services offered by the Retirement Community shall be specified in the Special Permit application and the scale of each service shall be in proportion to the number of dwelling units in the Retirement Community and subject to approval by the Planning Board.

\*Assisted Care includes the provision of services geared to an aging adult population which may have difficulty functioning independently and may require oversight including, but not limited to the provision of a full meal plan, transportation services, personal care and assistance with medications.

\*Restorative care/skilled nursing includes the provision of services for long-term nursing, convalescent or rehabilitative care; supervision and care incident to old age, retirement home care for elderly persons.

### Section 3 - Types of Dwellings and Facilities Permitted

The Planning Board may grant a Special Permit to allow a Retirement Community in any zoning district. A Retirement Community shall adhere to the dimensional requirements of the underlying zoning district except as set forth in Section 4 of this Section XVIII: Specific Restrictions. A Special Permit granted by the Planning Board may allow the construction of detached or attached dwellings of any combination, and may also allow the construction of a restorative care center/skilled nursing facility/clinic, congregate housing, assisted living facility(s) and accommodations for in house resident services. There shall be provided in appropriate cases suitable means of access to and egress from and access within all buildings designed for occupation for dwelling purposes or in house services for handicapped persons as required to comply with the standards of the Architectural Access Board. Enclosed walkways and/or non enclosed walkways connecting buildings shall be permitted.

**INDEPENDENT LIVING RETIREMENT HOUSING:** As used in this Bylaw, Independent Living Retirement Housing means private residential dwelling units, individually equipped with a

minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically does not offer on-site supportive services but is designed to be barrier free and may include emergency call features complemented by housing management and maintenance services.

**CONGREGATE HOUSING:** As used in this Bylaw, Congregate Housing means private dwelling units/apartments which may have kitchen facilities within a complex containing central dining and other common areas and is designed for an adult population requiring some supportive services including but not limited to meals, housekeeping, home health and other supportive services. Congregate Housing under this section of the bylaw must obtain all required permits and/or licenses that are required to operate such facility by any department of the United States of America, the Commonwealth of Massachusetts and the Town of Holden.

**ASSISTED LIVING FACILITY:** As used in this Bylaw, an Assisted Living facility means a twenty-four hour staff along with private dwelling units which may contain independent efficiency kitchens, but which contain common kitchen, dining and other activity areas. Assisted Living facilities are geared to an adult population which may have difficulty functioning independently and may require oversight including, but not limited to the provision of a full meal plan, transportation services, personal care and assistance with medications. Special care programs specifically designed for adults with memory loss are included in this category. Assisted Living Facility(s) under this section of the bylaw must obtain all required permits and/or licenses required to operate such a facility by any department of the United States of America, the Commonwealth of Massachusetts including Certification by the Executive Office of Elder Affairs pursuant to M.G.L. Chapter 19D and the Town of Holden.

**RESTORATIVE CARE/SKILLED NURSING FACILITY** includes any institutions which provide services primarily to three or more individuals admitted thereto with long-term nursing, convalescent or rehabilitative care; supervision and care incident to old age; or retirement home care for elderly persons and includes services provided by nursing homes, convalescent homes, long term care facilities, rest homes, infirmaries for older adults, charitable homes for the aged. Restorative Care/Skilled Nursing Facility(s) under this section of the bylaw must obtain all applicable permits and licenses required by any agency of the United States of America, the Commonwealth of Massachusetts and the Town of Holden.

**DWELLING UNIT:** One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with individual or congregate cooking, living, sanitary and sleeping facilities, excluding Mobile Homes and Trailers. The intent of this definition is to define a "home" with private sleeping rooms rather than a dormitory arrangement of sleeping quarters.

## Section 4 - Specific Restrictions

A Retirement Community as provided herein shall also be subject to the following specific restrictions.

### A. Density and Parcel Size

A Retirement Community shall occupy a parcel of land of twenty (20) acres or greater. The maximum number of dwelling units permitted in a Retirement Community shall be determined as follows:

Single family detached dwelling units require a land area of 10,000 square feet exclusive of required open space.

Duplexes require a land area of 15,000 square feet exclusive of required open space.

Triplexes require a land area of 22,500 square feet exclusive of required open space.

Townhouses or other multifamily residential dwelling units require a land area of 15,000 square feet for the first two dwelling units and 6000 square feet per dwelling unit for each dwelling unit thereafter exclusive of required open space.

No more than 50% of the dwelling units in a Retirement Community shall be in any one of the above referenced categories [single family detached dwelling units, duplexes, triplexes, townhouses or other multifamily dwelling units] if the Retirement Community consists of more than ten dwelling units. The Planning Board may waive this requirement if it can be demonstrated that the request is consistent with the objectives of the bylaw and is in the best interests of the Town and its residents.

Congregate Housing and/or Assisted Living Facilities occupying a single structure may be constructed at a density of 12 dwelling units per acre exclusive of required open space and acreage devoted to other use with no more than two such facilities occupying a Retirement Community site. These facilities must adhere to

the open space requirements of this article. Congregate Housing and/or Assisted Living Facilities may not function independently of a Retirement Community under Section XVIII of the Holden Zoning Bylaws. Any Congregate Housing or Assisted Living Facility under this section of the bylaw must obtain all required permits and/or licenses required by any department of the United States of America, the Commonwealth of Massachusetts and the Town of Holden. Development plans submitted under this section shall include a construction schedule indicating that other forms of housing allowed under this section will be constructed prior to or concurrent with commencement of construction of Congregate Housing or Assisted Living Facilities.

An increase in the number of dwelling units of up to twenty (20) percent of the maximum dwelling units allowed may be permitted based upon each additional dwelling unit so granted being Affordable Housing. In granting such increases the Planning Board shall require that the developer provide legally enforceable assurances which are acceptable to the Planning Board that the dwelling units so granted will continue to be Affordable Housing. For the purposes of this section "Affordable Housing" means housing affordable to people or families with incomes as set by the Department of Housing and Community Development for this purpose.

**B. Set back**

Single family detached dwelling units, duplexes, and triplexes, townhouses, multifamily residential dwelling units, Restorative Care/Skilled Nursing Facilities, Congregate Housing, and Assisted Living Facilities are to be set back a minimum of 50 feet from the outside perimeter property line of the retirement community. This 50 foot setback is intended to act as a buffer and shall not be disturbed from its natural state for the entire distance excepting for additional plantings or as required by the Planning Board and excepting the entranceway(s). The Planning Board may approve the removal of dead, dying or scrub vegetation in conjunction with additional plantings.

The minimum setback for Congregate Housing, Assisted Living Facilities, and Restorative Care/Skilled Nursing Facilities shall be increased by 15 feet for structures over one story in height.

**C. Lot coverage and Open Space Requirements**

Lot coverage, including both building footprints and all other impervious surfaces, for any Retirement Community shall not exceed twenty-five percent (25%) of the total parcel.

If the Retirement Community contains more than 4 buildings, these buildings shall be sited using cluster principles. At least twenty-five (25) percent of the Retirement Community site, of which fifty (50) percent shall not be wetlands, shall be preserved as open space exclusive of parcel size restrictions and set back requirements in Sections 4A and 4B. A minimum of seventy-five (75) percent of the open space shall be maintained as a natural vegetation area except that plantings, passive recreational uses (as may be permitted and/or required by the Planning Board), the installation, repair and maintenance of footpaths, underground utilities, access ways (if required by the Town of Holden or other governmental agency), drainage structures and facilities and such other construction as may be permitted and/or required by the Planning Board under the provisions of Site Plan Approval are permitted. However, such portions of the open space as shall have been disturbed for purposes so permitted shall be restored to former conditions as approved by the Planning Board. The open space shall be protected by a recorded restriction enforceable by the Town of Holden.

### D. Parking

There shall be at least one and one-half (1.5) off-street parking spaces per dwelling unit. Notwithstanding the foregoing Congregate Housing shall provide a minimum of one (1) off street parking space per dwelling unit and a Restorative Care/Skilled Nursing Facility or Assisted Living Facility shall have at least one-half (.5) off-street parking space per bed or dwelling unit respectively.

### E. Roads, Driveways, and Utilities

All roads, driveways, utilities, and drainage facilities within a Retirement Community shall be designed and constructed in conformance with the Town of Holden Subdivision Control Regulations. The Planning Board may waive said rules and regulations if it determines that such action will advance the intent of these regulations.



### Section 5 - Other Objectives

The following objectives are important in the development of a Retirement Community and are to be considered by the Planning Board in determining whether to grant a Special Permit for a Retirement Community:

- A. It is desirable to minimize municipal costs and environmental impacts through reduction, to the extent reasonable, in the length of streets, utilities and drainage systems per dwelling unit served.
- B. It is desirable to increase the size of contiguous area assured of preservation in a natural state and the number of off-street pathways and trails, recreation areas and wilderness area open to all residents of the Retirement Community.
- C. It is desirable that all existing scenic vistas be respected and preserved and that new scenic vistas be created.
- D. It is desirable to increase vehicular safety by having fewer, better located and designed egresses onto existing streets.
- E. It is desirable to preserve environmental quality by reduction (i) of the total area over which vegetation is disturbed by cut or fill or displacement; (ii) in critical lands (slopes in excess of fifteen percent (15%), land within one hundred (100) feet of a water body, wetland or stream having outstanding or rare vegetation) disturbed by construction; (iii) of the extent of waterways altered or relocated; (iv) in the volume of cut and fill for roads and construction sites.
- F. It is desirable to have the design and location and materials of the structure(s) on the site be sensitive to the natural and environmental conditions, vistas and abutting properties.
- G. There should be positive benefit to the Town in some important respects, such as mitigation of environmental damage, better controlled traffic, preservation of current character through location of reserved open space, meeting the shelter and/or health needs of special populations of the Town.

### Section 6 - Procedures

The procedures to obtain a special permit from the Planning Board for a Retirement Community, including administration, powers, hearings and time limits, shall be those set forth for a special permit.

### Section 7 - Application and Submission Requirements

The application and submission requirements for a special permit from the Planning Board for a Retirement Community shall comply with Section 7. I.XI.J.1 and the Holden Planning Board Plan Submittal Requirements on file with the Holden Town Clerk and include at minimum:

- Application fee as specified in the above referenced document

- Application forms in duplicate

- A Sepia or Mylar of the Plan

- Blueprint copies as specified in above referenced document

- A Certified Abutters List

- Mailing labels as specified in above referenced document

Plans shall show boundaries of the premises; existing and proposed topography, buildings (including the facades thereof), parking, screening, water, sanitary sewerage, storm drainage, site landscaping (including walls, fences, walks, planting areas and green belts), loading areas, driveway openings, driveways, service areas and lighting. If phasing is considered an overall development plan of the proposed use of the entire tract of land designated for the Retirement Community shall be submitted.

### Section 8 - Application Review Procedures

The Planning Board, through the special permit review process, shall exercise standards for review and standards for approval for a Retirement Community which comply with the intent and requirements of Sections 1-7 above and assure the following:

- A. Safety of internal circulation and egress.

- B. Adequate access to each structure for fire and service equipment.
- C. Traffic safety and ease of access at street and highway entrances and exits of driveways, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street(s) or highway intersection(s).
- D. Appropriate scale of dwelling units, including group structures, which may exceed the average dimension of units on surrounding properties, but not to an excess which negatively affects surrounding properties as determined by the Planning Board.
- E. Appropriate loading space for associated services but no less than one (1) space per 40,000 square feet of such space and no less than one (1) space overall.
- F. Buffering of the Retirement Community from surrounding properties with vegetation and/or fencing as needed and determined by the Planning Board.

The Planning Board shall grant a Special Permit under this section only when it finds that the appropriateness of the location for the uses and structures, the adequacy of public sewerage and water facilities or the suitability of the site for on-lot sewerage and water systems, any possible adverse effect on the neighborhood and/or Town, undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities to ensure the proper operation of the proposed use, structure, or condition the Retirement Community is consistent with the intent of this bylaw.

The Board shall impose reasonable conditions 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 otherwise by this bylaw; screening and buffers; modification of the exterior appearance of structures; limitation upon the size, number of occupants, method and time of operation, or extent of facilities; regulation of the number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required in this bylaw.

The Planning Board shall provide findings of fact regarding its decision(s) for approval of any Special Permit granted under this Section XVIII of the bylaws.

## SECTION XIX

### SOLAR PHOTOVOLTAIC ARRAY FIELDS

#### Section 1 – Purpose

The purpose of this Section XIX is to regulate solar photovoltaic array fields by providing standards for the placement, design, construction, operation, monitoring, modification, reconfiguration, and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

#### Section 2 – Applicability

No solar photovoltaic array field shall be constructed, installed, operated, modified, reconfigured, removed, or decommissioned, except in accordance with this Section XIX.

This Section XIX shall not apply to any roof-mounted solar photovoltaic installation or any ground-mounted arrangement of solar photovoltaic panels that does not meet the definition of a solar photovoltaic array field.

#### Section 3 – General Requirements

Solar photovoltaic array fields shall be subject to the following general requirements:

##### A. Dimensional Requirements

Setbacks: Front, side, and rear setbacks shall be 50 feet from all lot lines.

Minimum Lot Size: 2 acres.

##### B. Signs

Any solar photovoltaic array field site shall include a sign that identifies the site operator and provides a 24-hour emergency contact phone number. Solar photovoltaic panels shall not be used for the display of any advertizing except for reasonable identification of the manufacturer and/or the site owner and operator. All signs shall comply with the Town's General and Zoning Bylaws.

### **C. Emergency Services**

The owner or operator of a solar photovoltaic array field shall provide to the Fire Chief a copy of the electrical schematic plan for the solar photovoltaic array, including all means of shutting down the solar photovoltaic array. Upon request, the owner or operator shall cooperate with the Fire Chief in developing an emergency response plan.

The owner or operator shall provide to the Fire Chief the name, address, and telephone number(s) of an emergency contact person or persons to be accessible to the Fire Chief 24 hours per day throughout the operating life of the solar photovoltaic array. Any change in such information shall be provided to the Fire Chief by the effective date of such change.

### **D. Site Maintenance**

Any solar photovoltaic array field site and all structures located thereon shall be maintained in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for all maintenance costs.

### **E. Decommissioning**

Any solar photovoltaic array field that has reached the end of its useful life, or has been abandoned as set forth in Subsection 3.F hereof, shall be decommissioned. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for decommissioning, which shall consist of:

1. Physical removal of all structures, equipment, security barriers, transmission lines, and other components of the solar photovoltaic array field not later than 150 days after the date of discontinued operations.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Stabilization and/or re-vegetation of the site as necessary to minimize erosion, provided that landscaping and designated below-grade foundations may be left in place in order to minimize erosion and disruption to vegetation.

#### **F. Abandonment**

Absent written notice of a proposed date of decommissioning or written notice of extenuating circumstances from the owner or operator of the site, a solar photovoltaic array field shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the site fails to remove all structures, equipment, security barriers, transmission lines, and other components of the solar photovoltaic array field within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the site and perform any required decommissioning work, in accordance with Subsection 3.E hereof, at the expense of the site owner.

### **Section 4 – Site Plan Review**

No building permit for a new or modified solar photovoltaic array field shall be issued until the site owner has obtained site plan approval from the Planning Board, as provided herein.

### A. General Requirements

All plans and maps shall be prepared, stamped and signed by a Professional Engineer or Registered Land Surveyor licensed to practice in Massachusetts.

### B. Required Documents

An application for site plan review shall include 8 copies and one original of the following documents:

1. A Site Plan showing:
  - a. Property lines and physical features, including roads, for the project site.
  - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation and structures.
  - c. Blueprints or drawings of the solar photovoltaic array field signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
  - d. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
  - e. Documentation of the major system components to be used, including, but not limited to, the PV panels, mounting system, and inverter.
  - f. The direction, intensity, and effect of solar glare to abutting properties.
  - g. Any drainage impacts and any necessary of stormwater controls.
2. The name, address, and contact information of:
  - a. Property owner;
  - b. Applicant, if not the owner;

- c. Site operator, if not the owner or applicant;
  - d. Solar photovoltaic array field installer;
  - e. Any agents representing the owner, applicant, site operator, or installer.
- 
- 3. Evidence of site control sufficient to allow for the construction and operation of the proposed solar photovoltaic array field.
  - 4. Evidence that the Holden Municipal Light Department has approved the solar photovoltaic array field as proposed.
  - 5. An operation and maintenance plan, which shall include measures for maintaining safe access to the site, storm water controls, as well as general procedures for operational maintenance of the site.
  - 6. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a Zoning Map with the parcel(s) identified as suitable for this purpose).
  - 7. Description of proposed financial surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the solar photovoltaic array field as set forth in Subsection 3.F hereof. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, along with a mechanism for calculating increased removal costs due to inflation. Municipal or state-owned solar photovoltaic array fields shall be exempt from this requirement.

Upon request by the applicant, the Planning Board may waive any documentary requirements, as it deems appropriate.

**C. Additional Submission Requirements**

An application for site plan review shall also include the following:



1. Certified List of Abutters showing the names and addresses of each party entitled to notice, pursuant to M.G.L. c.40A, §11.
2. Two stamped addressed envelopes for each party shown on the Certified List of Abutters.
3. Filing fee of \$200.

### **D. Review Procedures**

Upon receipt of an application for site plan review, the Planning Board shall transmit copies of the application to the Fire Chief, the Director of the Department of Growth Management, and the General Manager of the Holden Municipal Light Department. The Planning Board shall provide notice pursuant to M.G.L. c.40A, §11, and hold a public hearing on the application within 65 days from the date of filing. Approval of the site plan application shall require a majority vote of the Planning Board. A decision on the application shall be made within 90 days following the date of the public hearing, and a written decision shall be filed with the Town Clerk within 14 days after the vote of the Planning Board.

### **E. Approval Criteria**

The Planning Board shall approve an application for site plan review if it finds the following:

1. The clearing of natural vegetation will be limited to what is necessary for the construction, operation and maintenance of the solar photovoltaic array field.
2. Sufficient buffering (including, but not limited to, evergreen vegetation, stockade fencing, and landforms) will be provided to screen the solar photovoltaic array field and appurtenant structures from view from all adjacent streets and properties, and wherever possible, structures will be clustered to avoid adverse visual impacts.

3. Appurtenant structures on the site, if any, will be architecturally compatible with each other.
4. Solar glare to abutting properties will be mitigated through the use of sufficient buffering (including, but not limited to, evergreen vegetation, stockade fencing, and landforms) and/or the repositioning of solar photovoltaic panels.
5. Exterior lighting will be limited to that required for safety and operational purposes, and where feasible, exterior lighting will be shielded from abutting properties, directed downward, and will incorporate full cut-off fixtures to reduce light pollution.
6. Reasonable efforts will be made to place all utility connections from the solar photovoltaic array field underground, unless there are no negative aesthetic impacts associated with aboveground utility connections or unless underground installation is prohibited by the Holden Municipal Light Department.
7. Financial surety has been provided sufficient to cover the cost of removal in the event the Town must remove the solar photovoltaic array field, as set forth in Subsection 3.F hereof.

In issuing a site plan approval, the Planning Board may impose any reasonable conditions that are consistent with the approval criteria and deemed necessary to carry out the purpose of this Section XIX.