

SECTION 5: USE REGULATIONS

Existing Bylaw Section: Section 3—Use Regulations

Approach: *This section was drafted to accomplish six primary objectives:*

- 1) Clarify the responsibilities of the Planning Board and the Zoning Board of Appeals relative to different Special Permits;*
- 2) Remove the existing potential for applicants to petition for uses NOT specifically included in the Use Table (more restrictive);*
- 3) Add a Parking Code column to the Use Table that makes it easier to cross-reference specific uses with the parking schedule in the proposed Section 8;*
- 4) Clarify the difference between excavation that takes place as part of development and excavation as an ongoing commercial activity (more restrictive);*
- 5) Provide more clear standards for both types of excavation (more restrictive); and*
- 6) Clarify the buffer design standards and provide some flexibility within those standards (both more and less restrictive).*

Other changes to this section include some changes in how uses are allowed in the Use Table and substantive application requirements for earth removal. These are addressed or called out individually in the text below.

Commentary for specific provisions is provided throughout this document along with more specific references to those sections of the existing bylaw that are directly related to these revisions.

5-A. BASIC REQUIREMENTS

1. Basic Requirements

- A. No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part for any purpose other than for one or more of the uses hereinafter set forth in Section 5-B as permitted in the district in which such building, structure or land is located, or set forth in Section 5-B as permissible by Special Permit in said district and so authorized in accordance with the following notations:
 - A - Use permitted as a matter of right;
 - SPZ - Use allowed as an exception under Special Permit as defined by Massachusetts General Laws, Chapter 40A, Section 9, issued by the Board of Appeals as provided hereafter;
 - SPP - Use allowed as an exception under Special Permit as defined by Massachusetts General Laws, Chapter 40A, Section 9, issued by the Planning Board as provided hereafter; and

- X - Use prohibited.
- B. No building or premises shall be erected, altered or used for any use that will be injurious, dangerous, obnoxious, or offensive to people in the general vicinity by reason of the emission of odor, fumes, dust, smoke, vibration, noise, heat, glare, or other nuisances observable at the lot lines or the immediate neighborhood.
- C. Land clearing or clear cutting of trees and excavation, gravel removal, or filling of earth is prohibited prior to issuance of all required approvals, permits, variances, licenses and authorizations. Very limited clearing and excavation is permitted to obtain necessary survey and engineering data or other activities required to secure necessary permits.

COMMENT: This Section would replace Section 3-A of the existing Bylaw. Instead of referencing a set of findings at the end of the Use Table (“SP (1-4)”), this section establishes that some Special Permits shall be administered by the ZBA (“SPZ”) and some by the Planning Board (“SPP”). Consistent with the recommendations of the Master Plan, design standards have been added to the Site Plan Review requirement (listed under Section 14) and the Planning Board has been designated the SPGA for the CBD. The standard findings for Special Permit approval are located in the proposed Section 2 as is standard practice with most communities. Also important to note is that no land clearing can take place without an applicant having permits in place.

2. Relationship Between Multiple Special Permits

In projects with two different permit granting authorities, the Planning Board or Board of Appeals may request a joint public hearing be held. When a project requires multiple special permits by either the Planning Board or the Board of Appeals, in order to expedite the review process, the Boards shall conduct both reviews simultaneously, to the extent possible.

COMMENT: This Section is new and is meant to streamline permitting by consolidating multiple permit processes into a single agency and a joint hearing process. As permitting processes become more complex, applicants are directed to the Planning Board for joint hearings.

5-B. Schedule of Use Regulations

Where an activity might be classified under more than one of the following uses, the more specific classification shall govern, if equally specific, the more restrictive shall govern. Uses not classifiable under any category listed for the applicable district are prohibited unless provisions for said uses are provided elsewhere in the Zoning Bylaw.

COMMENT: This Section is based on the existing use table. In few instances, Where a use designation has been changed (e.g. from Special Permit to by-right or vice versa) these have been highlighted in **BLUE**. Where a use has remained a Special Permit Use, but the administering authority has changed (e.g., from ZBA to Planning Board) these have been highlighted in **YELLOW**.

Table 5-B.1 Use Table

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
1. PUBLIC, SEMI-PUBLIC / INSTITUTIONAL:											
a. Church or other place of worship, parish house, rectory or convent.	A	A	A	A	A	A	A	A	A	A	6
b. Educational uses.	A	A	A	A	A	A	A	A	A	A	6
c. Library, museum, art gallery, or community building.	A	A	A	A	A	A	A	A	A	A	6
d. Private for profit school.	X	X	X	X	X	X	SPP	SPZ	SPZ	SPZ	6
e. Charitable and philanthropic institutions.	A	A	A	A	A	A	A	A	A	A	4
f. Nursery school or other agency for the day care of children.	A	A	A	A	A	A	A	A	A	A	6
g. Hospital and/or comprehensive health care system.	X	X	X	SPZ	X	SPZ	X	SPZ	SPZ	SPZ	3
h. Public administration building, fire or police station.	A	A	A	A	A	A	A	A	A	SPZ	6
i. Recreational or water supply use of a governmental agency.	A	A	A	A	A	A	A	A	A	A	6
j. Any use of a governmental agency not specifically set forth herein.	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPP	SPZ	SPZ	SPZ	6
k. Cemeteries.	X	X	X	X	SPZ	SPZ	SPP	A	A	SPZ	6
l. Private Club, Association or Lodge (but not including any use the chief activity of which is one customarily conducted as a business)	SPZ	SPZ	SPZ	SPZ	SPZ	A	A	SPZ	SPZ	SPZ	4
m. Any commercial recreational uses which go on after dusk or before dawn such as skateboard parks, tennis courts etc.	X	X	X	X	SPZ	SPZ	SPP	A	A	SPZ	6
n. Any commercial recreational uses that do not go on after dusk or before dawn such as boat or canoe, livery, riding academy or stable, ski grounds, picnic grounds, bathing beach or recreation camp.	SPZ	SPZ	X	SPZ	A	SPZ	SPP	A	A	SPZ	6
o. Heliport.	X	X	X	SPZ	X	X	X	SPZ	SPZ	SPZ	NA
p. Heliport for emergency hospital and police use but not for commercial use.	X	X	X	SPZ	SPZ	SPZ	X	SPZ	SPZ	SPZ	NA
q. Restroom and storage facilities, and/or concession stand to be operated by a governmental or nonprofit agency, accessory to a permitted recreational use.	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPP	SPZ	SPZ	SPZ	NA
2. AGRICULTURAL:											
a. Orchard, market garden, nursery or other open use of the land for agricultural production. Special permits and prohibitions for this use shall apply only to parcels of five (5) or less contiguous acres.	A	A	SPZ	A	A	SPZ	SPP	SPZ	SPZ	X	6

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
b. Building or structure used or maintained in connection with a permitted agricultural use of the land, or used for any other purpose of agricultural production. Special permits and prohibitions for this use shall apply only to parcels of less than (5) contiguous acres.	SPZ	SPZ	SPZ	A	A	SPZ	SPP	SPZ	SPZ	X	6
c. Salesroom or stand for the sale of nursery greenhouse garden or other agricultural produce (including articles of home manufacture from such produce), but only where the major portion thereof is raised on the premises or made from produce so raised. Special permits and prohibitions for this use shall apply only to parcels of less than five (5) contiguous acres.	SPZ	SPZ	SPZ	SPZ	SPZ	A	A	SPZ	SPZ	X	6
3. RESIDENTIAL:											
a. Detached one-family dwelling	A	A	A	A	X	X	X	X	X	X	1
b. Two-family detached dwelling if located on a lot having an area of at least twenty thousand (20,000) square feet and if connected to or to be connected at time of construction with the public sewer system.	X	X	SPZ	X	X	X	X	X	X	X	1
c. Three-family detached dwelling If located on a lot having an area of at least thirty thousand (30,000) square feet and if connected to or to be connected at the time of construction with the public sewer system.	X	X	SPZ	X	X	X	X	X	X	X	1
d. Dwelling for occupancy by more than three (3) families provided that:	X	X	SPZ	X	X	X	X	X	X	X	1
i. such dwelling is connected or is to be connected with the public sewer system at the time of construction;											
ii. such dwelling is located on a lot having an area of at least thirty thousand (30,000) square feet with an additional ten thousand (10,000) square feet for each dwelling unit in excess of three (3) to be accommodated; and											
iii. a fifty (50) foot buffer zone shall be required where the adjacent lot has a single-family dwelling or is a vacant lot.											
e. The conversion and/or use of a one-family dwelling existing on January 1, 1956, as a dwelling for not more than two (2) families provided that:	SPZ	SPZ	SPZ	SPZ	X	SPZ	SPP	X	X	X	1

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
i. such dwelling is located on a lot having an area at least fifty (50%) percent larger than the minimum hereafter specified for the construction of a building in the same district;											
ii. no exterior enlargement is made which, together with any changes made during the preceding five (5) years, increases by more than twenty (20) percent the area of the dwelling;											
iii. no change is made in the external appearance and general aspect of such dwelling which alters its one-family character; and											
iv. the lot is able to support two (2) septic disposal systems if not connected to the public sewer system.											
f. The conversion and/or use of a one-family dwelling existing on January 1, 1956 as a dwelling for two families on a lot of not less than twenty thousand (20,000) square feet; provided that such dwelling is connected with the public sewer system.	X	X	SPZ	X	X	SPZ	SPP	X	X	X	1
g. The use of a floor other than the ground floor or basement for dwelling units provided that such dwelling units are or will be connected to the public sewer at the time of construction. In a GR zone the requirements of Use Table Subsection 3.d (Dwelling for occupancy by more than three (3) families) must be met. The following conditions must also be met:	X	X	SPP	X	X	SPP	A	X	X	X	1
i. within CBD zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 3.5 times the total gross floor area dedicated to commercial use; and											
ii. within B zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 2.0 times the gross floor area of the ground floor.											
h. Bed and Breakfast, or tourist home provided that the building is connected or is to be connected to a public sewer system at the time of construction.	X	X	SPZ	X	X	A	SPP	X	X	X	2
i. The use of a portion of a dwelling or of building accessory thereto as the workroom of a resident beautician, dressmaker, milliner, photographer, cabinetmaker, skate sharpener, radio repairman, or other person engaged in a customary home occupation, or as a place for incidental work and storage in connection with his off-premises trade by a resident builder, carpenter, electrician, painter, plumber or other artisan, or by a resident tree surgeon, landscape gardener, or similar person provided that:	SPZ	SPZ	SPZ	SPZ	X	A	A	A	A	A	6

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
i. such use is clearly secondary to the use of the premises for dwelling purposes;											
ii. no trading in merchandise is regularly conducted except for the sale of products made by the resident himself or of parts or other items customarily maintained in connection with and incidental to its performance;											
iii. such use will not have a material adverse effect on the value of the land and buildings in the neighborhood;											
iv. the external appearance and general aspect of the building so used is in conformity with the residential character of the neighborhood; and,											
v. there is no outside display of goods or products, storage of materials of equipment, or any other outward evidence that the premises is being utilized for any purpose other than residential (except for an accessory sign as hereinafter provided).											
j. The use of a portion of a dwelling or of a building accessory thereto as the office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession, or as a studio or office of an artist, musician, teacher, real estate or insurance agent residing on the premises subject to the conditions that:	A	A	A	A	X	A	A	A	A	A	4
i. not more than one person other than residents of the premises is regularly employed thereon in connection with such use;											
ii. there is no outward evidence that the premises is being utilized for any purpose other than residential (except for an accessory sign as hereinafter permitted); and,											
iii. not more than four (4) persons are gathered at one time for the purpose of being instructed.											
k. Rooming House, the renting of rooms or the furnishing of table board in a dwelling to not more than four (4) persons (whether regular or transient).	A	A	A	A	X	A	A	A	A	A	2
l. The raising or keeping of a small flock of poultry or a saddle horses, livestock, or other animals for private and noncommercial purposes.	A	A	A	A	A	X	X	X	X	A	6
m. The garaging or maintaining on any premises of a total of not more than three (3) motor vehicles (including not more than one commercial vehicle not in excess of two ton capacity), except in the case of a public or agricultural use.	A	A	A	A	A	A	A	A	A	X	6

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
n. The garaging or maintaining of more than three (3) automobiles or of more than one commercial vehicle, but only where in connection with a permitted main use on the same premises except in the case of an agricultural use.	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPP	A	A	A	6
q. The garaging or maintaining of a trailer or semitrailer (as defined in Chapter 90 Section 1 of the General Laws) more than fifteen (15) feet in length; except for house trailers, motor homes, or recreational trailers, for not more than one (1) month in any consecutive twelve (12) month period.	A	A	A	A	A	A	A	A	A	A	6
r. Accessory where incidental to a permitted use, including the following: private guest house, caretaker's quarters greenhouse, stable, tool shed, playhouse, tennis court, boathouse or other similar building or structure for domestic storage use.	A	A	A	A	A	A	A	A	A	A	6
s. Residential Care Continuum pursuant to Section 10-A	X	SPP	SPP	X	X	X	X	X	X	X	See Section 10-A
t. Open Space Residential Development pursuant to Section 10-D	SPP	SPP	X	SPP	X	X	X	X	X	X	6
u. Age Qualified Village pursuant to Section 10-C	X	SPP	SPP	X	X	SPP	X	SPP	SPP	X	See Section 10-C
v. Independent and Assisted Living pursuant to Section 10-B	X	X	SPP	X	X	SPP	X	X	SPP	X	See Section 10-B
4. BUSINESS:											
a. Retail Sales and Services less than 10,000 square feet.	X	X	X	X	X	A	A	A	A	SPZ	4
b. Retail Sales and Services greater than or equal to 10,000 square feet but less than 20,000 square feet.	X	X	X	X	X	SPZ	SPP	A	A	SPZ	4
c. Retail Sales and Services greater than or equal to 20,000 square feet.	X	X	X	X	X	X	X	SPZ	SPZ	X	4
d. Showroom for building supplies (including plumbing, heating and ventilating equipment) with storage limited to floor samples only.	X	X	X	X	X	A	A	A	A	A	4
e. Salesroom for automobiles, boats, trailers, trucks, farm implements or machinery, with repair services (All vehicle storage areas must be paved and be equipped with gas traps. All vehicles will be required to park on paved surfaces).	X	X	X	X	X	SPZ	X	SPZ	SPZ	SPZ	4
f. Bakeries, retail	X	X	X	X	X	A	A	A	A	X	4
g. Medical and dental laboratories dealing directly with the consumer.	X	X	X	X	X	A	A	A	A	A	4

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
h. Restaurant or similar place for the serving of food or beverages only to persons inside a completely enclosed building, subject to the condition that no live entertainment is regularly furnished.	X	X	X	X	X	A	A	A	A	X	3
i. Shop of a builder, carpenter, cabinetmaker, caterer, electrician, painter, paperhanger, plumber, sign painter or upholsterer with not more than five thousand (5,000) square feet of floor area per establishment used for work and storage.	X	X	X	X	X	A	A	A	A	A	4
j. Printing or publishing establishment, with not more than five thousand (5,000) square feet of floor area per establishment used for work and storage.	X	X	X	X	X	A	A	A	A	A	4
k. Business or professional office or agency, bank, or other financial institution.	X	X	X	X	X	A	A	A	A	A	4
l. Office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.	X	X	SPZ	X	X	A	A	A	A	X	4
m. Funeral parlor or undertaking establishment .	X	X	SPZ	X	X	A	SPP	A	A	X	3
n. Any of the following service establishments dealing directly with the consumer: barber or beauty shop, business or trade school, clothing rental establishment, coin operated or other self-service dry cleaning establishment, collection station for laundry or dry cleaning, dancing or music school, dressmaking or millinery shop, frozen food locker, hand or self service laundry, household appliance repair shop, interior decorating studio, meeting hall for hire, photographic studio, shoe or hat repair shop, typewriter repair shop.	X	X	X	X	X	A	A	SPZ	SPZ	X	4
o. Hotel or motel.	X	X	X	X	X	A	SPP	A	A	X	2
p. Any of the following uses, if located in business district, which has an overall length of at least one thousand (1,000) feet, measured along the street on which the use has its principal access:											
i. outdoor dining area accessory to a restaurant or hotel on the same premises;	X	X	X	X	X	SPZ	SPP	X	X	X	6
ii. drive-in or stand for the dispensing of food beverages, or goods from inside a building to persons standing or seated outside;	X	X	X	X	X	SPZ	SPP	X	X	X	6
iii. theater, bowling alley, dance hall or other indoor amusement; and,	X	X	X	X	X	SPZ	SPP	X	X	X	6
iv. the regular furnishing of live entertainment at a restaurant or similar place.	X	X	X	X	X	SPZ	SPP	X	X	X	6

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
q. Any of the following uses if located in business district which has an overall length of less than one thousand (1,000) feet, measured along the street on which the use has its principal access:											
i. outdoor dining area accessory to a restaurant or hotel on the same premises;	X	X	X	X	X	SPZ	SPP	SPZ	SPZ	X	6
ii. drive-in or stand for the dispensing of food, beverages or goods from inside a building to persons standing or seated outside;	X	X	X	X	X	SPZ	SPP	SPZ	SPZ	X	6
iii. theater, bowling alley, dance hall, or other indoor amusement, and	X	X	X	X	X	SPZ	SPP	SPZ	SPZ	X	6
iv. the regular furnishing of live entertainment at a restaurant or similar place.	X	X	X	X	X	SPZ	SPP	SPZ	SPZ	X	6
r. Outdoor Commercial Amusement, including miniature golf, bumper cars, batting cage, go-cart track, driving range, and similar uses.	X	X	X	X	X	SPZ	X	SPZ	SPZ	X	6
s. Animal or veterinary hospital.	X	X	X	X	X	SPZ	SPP	SPZ	A	SPZ	6
t. Commercial kennel.	X	X	X	X	X	SPZ	SPP	SPZ	A	SPZ	6
u. Commercial greenhouse.	X	X	X	SPZ	X	A	A	A	A	X	6
v. Automobile repair garage or service station.	X	X	X	X	X	X	X	A	A	X	4
w. Automobile parking lots for which a fee is charged and those parking lots not covered by 5-B-4-x.	X	X	X	X	X	A	SPP	A	A	SPZ	NA
x. Automobile parking area for which no fee is charged, provided that such area is located on a lot in immediate proximity to a nonresidential district.	X	X	SPZ	X	X	A	A	A	A	SPZ	NA
y. Yard sales (household effects) to be held on not more than three (3) occasions during twelve (12) months, each sale to last no more than two (2) days.	A	A	A	A	A	A	A	A	A	A	NA
z. Any other retail business or service establishment, provided that such use is similar to the uses specifically permitted in these districts in general character and in effect on adjacent property and improvement (but not including any use specifically permitted herein in a less restricted district)	X	X	X	X	X	SPZ	SPZ	SPZ	SPZ	SPZ	6

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
aa. Accessory use incidental to a permitted main use, including such light manufacturing as is usual in connection therewith, subject to the conditions that:	X	X	X	X	X	A	SPP	A	A	SPZ	5
i. such manufacturing does not occupy an area exceeding fifty percent (50%) of the total floor area occupied by the main use;											
ii. the major portion of any products manufactured are to be sold at retail on the premises; and											
iii. not more than five (5) employees are regularly employed in such manufacturing (10,000) square feet.											
bb. Open display of goods for sale on the premises accessory to a permitted main use conducted in a completely enclosed building on the same premises, provided that uses are appropriately screened in accordance with all applicable Sections of the Zoning Bylaw.											
i. where total ground area devoted to such open display does not exceed ten percent (10%) of the ground area covered by said building.	X	X	X	X	X	A	A	A	A	A	6
ii. where the ground area devoted to such open display does not exceed more than twenty-five percent (25%) of the ground area covered by the building.	X	X	X	X	X	SPZ	SPP	A	A	A	6
iii. where the total ground area devoted to such open display exceeds twenty-five percent (25%) of the ground area covered by said building.	X	X	X	X	X	X	X	SPZ	SPZ	SPZ	6
cc. Any Adult Establishment defined in Section 15 of the Bylaw, provided that such use is not less than live hundred (500) feet from a residential district, school, religious institution, or day care facility or from any other adult bookstore or adult motion picture theatre or from any establishment licensed to sell alcoholic wine and malt beverages under the provisions of M. G. L. Chapter 138, Section 12.	X	X	X	X	X	X	X	X	X	SPZ	6
dd. Auto Body Repair Establishments for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks, and all types of motorized vehicles.	X	X	X	X	X	X	X	SPZ	SPZ	SPZ	4
5. WHOLESALE, INDUSTRIAL:											
a. Wholesale office or showroom with storage limited to floor samples only.	X	X	X	X	X	A	A	A	A	A	5
b. Truck terminal or motor freight station.	X	X	X	X	X	X	X	X	SPZ	A	6
c. Warehouse for the covered storage of materials, supplies, equipment, and manufactured products, whether or not produced on the premises.	X	X	X	X	X	X	X	A	A	A	5

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
d. Open or outside storage of materials, supplies, equipment and manufactured products in a storage yard completely screened from view at normal eye level from any street or any premises.	X	X	X	X	X	X	X	A	A	A	5
e. Coal elevator or gas storage tank, other than as an accessory use.	X	X	X	X	X	X	X	X	X	A	6
f. Plant for bulk storage of petroleum or petroleum products, natural gas, and/or propane, provided however, that none of the aforementioned products shall exceed 50,000 gallons of storage capacity (measured by the volume of water that could be stored in the tanks).	X	X	X	X	X	X	X	X	X	SPZ	5
g. Establishment for the repair or storage of boats, trailers, trucks, farm implements, or machinery.	X	X	X	X	X	X	X	SPZ	SPZ	A	4
h. Plant for bulk processing of wood or lumber (such as a sawmill planing mill, or wood preserving plant).	X	X	X	X	X	X	X	X	X	A	5
j. Shop of a builder, carpenter, cabinetmaker, caterer, electrician, painter, paperhanger, plumber, sign painter or upholsterer with more than five thousand (5,000) square feet of floor area per establishment used for work or storage.	X	X	X	X	X	X	SPP	A	A	A	5
k. Printing or publishing establishment with more than five thousand (5,000) square feet of gross floor area per establishment used for work or storage.	X	X	X	X	X	X	X	A	A	A	5
l. Power laundry, dry cleaning or dyeing works, carpet or rug cleaning plant.	X	X	X	X	X	X	X	SPZ	SPZ	A	5
m. Research, experimental or testing laboratory other than as an accessory to a permitted use.	X	X	X	X	X	X	SPP	A	SPZ	A	5
n. Bakeries, Wholesale.	X	X	X	X	X	SPZ	SPP	A	A	A	5
o. Plant for bottling or packaging but not including meat and fish products.	X	X	X	X	X	X	X	A	A	A	5
p. Plant for manufacturing of alcoholic beverages, heavy machinery (such as agricultural, construction, mining or railroad machinery), metal foundry products, or stone products (such as abrasives, monuments).	X	X	X	X	X	X	X	A	A	A	5
q. Plant for light metal or plastic fabrication or finishing, but not including heavy punch presses or drop hammers.	X	X	X	X	X	X	X	A	A	A	5
r. Plant for manufacturing of electrical or electronic devices, appliances, apparatus, or supplies.	X	X	X	X	X	X	X	A	A	A	5
s. Plant for manufacturing of medical, dental or drafting instruments or equipment optical goods, watches or other precision instruments or equipment.	X	X	X	X	X	X	X	A	A	A	5

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
t. Plant for manufacturing advertising displays, awnings or shades, beverages (nonalcoholic), brushes, books, candy clothing or other textile products, jewelry, ice, leather goods, textiles, toys or wood, paper, or glass products.	X	X	X	X	X	X	X	A	A	A	5
u. Accessory use incidental to a permitted main use.	X	X	X	X	X	SPZ	SPP	A	A	A	5
v. Any other lawful industrial or wholesale business, service, storage or light manufacturing use.	X	X	X	X	X	X	X	SPZ	SPZ	SPZ	5
w. Dwelling, provided that such dwelling is accessory to a permitted main use such as the dwelling of a caretaker, watchman, or operator of a business or manufacturing establishment on the same premises, and subject to the condition that such dwelling conforms to the regulations of this Bylaw.	X	X	X	X	X	X	X	SPZ	SPZ	SPZ	1

5-C. ENCLOSURE OF USES

In a non-residential district, all uses permitted as of right or permissible by Special Permit, and all uses accessory thereto, shall be conducted within a completely enclosed building except the following.

- A. The dispensing of food, beverages or goods at a drive-in or stand where authorized.
- B. Accessory outdoor dining areas, where authorized.
- C. The dispensing of fuels, lubricants or fluids at a garage or service station where authorized.
- D. Plants growing in the soil.
- E. Automobile parking lots.
- F. Exterior signs as hereinafter permitted.
- G. Exterior lights, if so arranged as to reflect away from streets and from any adjacent premises located in residential districts.
- H. The open display of goods, products, materials or equipment accessory to a permitted main use as heretofore permitted (refer to line “c” of 4. BUSINESS: of Table 5-B.1 Use Table).
- I. Open storage of materials, supplies and equipment as heretofore permitted (refer to line “d” of 5. Wholesale, Industrial: of Table 5-B.1 Use Table).
- J. The uses described in lines “e, i, j, l, m” of 1. PUBLIC, SEMI-PUBLIC/INSTITUTIONAL of Table 5-B.1 (Use Table).
- K. The use described in line “a” of 2. AGRICULTURAL: of Table 5-B.1 (Use Table).
- L. The use described in lines “l, m, n, q” of 3. RESIDENTIAL: of Table 5-B.1 (Use Table), and Section 5.D. EXCAVATION OR FILLING OF EARTH.
- M. The uses described in lines “q, t, w, x, y” of 4. BUSINESS: of Table 5-B.1 (Use Table), and Section 5.E. EARTH REMOVAL.
- N. The uses described in lines “b, d, e, g, h, u” of 5. WHOLESALE, INDUSTRIAL: of Table 5-B.1 (Use Table).

5-D. EXCAVATION OR FILLING OF EARTH

1. Applicability

Activities addressed under this Section of the Bylaw are those excavation or filling activities that are incidental to other primary uses or activities. Excavation or filling, in these terms, shall therefore include all earth removal, filling or grading that occurs for uses other than mining or quarry operations. These shall include, but are not limited to, excavations for swimming pools, terracing, on-site utilities, landscaping, agricultural uses covering less than five (5) acres, and general construction.

2. Activities Prohibited

Clear-cutting of vegetation and stripping of topsoil on a site before a Building Permit has been issued by the Building Inspector for the intended use of the site is prohibited unless limited clearing is required for pre-development work including, but not limited to, site access, surveying, and test pits pursuant to accepted engineering practices.

3. Activities Allowed

The following activities shall be allowed as long as said activities comply with all other Sections of the Zoning Bylaw, all other local laws and regulations and all applicable state and federal regulations:

- A. No permit will be required for excavation or filling operations which will involve the excavation or filling of less than one hundred (100) cubic yards of earth per year for a residential use or one hundred fifty (150) cubic yards of earth over the course of one year for a non-residential use, or excavating or filling which will result in less than a one foot (1) change in grade. Said grade change shall be measured over an area not to exceed 10% of the minimum required lot area for the zoning district in which the land is located and at no point shall the change in grade exceed one foot. .
- B. Activities associated with a non-residential use that will involve the excavation or filling of less than one hundred and fifty (150) cubic yards of earth per year.
- C. Excavations or filling incidental to the construction of residential buildings for which all other permits have been issued, or installation of walks, driveways, septic systems, swimming pools, or other accessory uses to such buildings and expansion thereto, provided the quantity of materials removed shall not exceed that required to adequately install all permitted site features.
- D. Excavation in the course of normal and customary horticultural, floricultural or agricultural use of land for operation of more than five acres.
- E. Activities approved as part of any Site Plan Review application.

COMMENT: These provisions clarify the intent of Section 3-E(1) in the existing Zoning Bylaw. Importantly, provisions for excavation incidental to construction have been removed from this section and more clearly explained below.

4. Activities Requiring a Special Permit

Under the provisions of this Section of the Bylaw, the Board of Appeals may authorize a Special Permit for the following activities:

- A. Activities associated with a residential use that will involve the excavation or filling of one hundred (100) cubic yards of earth or more per year except those listed in Subsection 5-D.3.C above.
- B. Activities associated with a non-residential use that will involve the excavation or filling of one hundred and fifty (150) cubic yards of earth or more per year except for those activities listed in Subsection 5-D.3.D above.

COMMENT: The numeric thresholds listed above for 100 and 150 cubic yards are the same as those in the existing Bylaw (Section 3-E(1)(a)). The exemptions provided in Section 5-C.3.C ensure that normal excavation, grading and/or filling activities associated with an approved Definitive Subdivision Plan will not require a Special Permit.

5. Special Permit Application Requirements

An applicant for a Special Permit for Excavation or Filling of Earth shall provide the following plans and information to the Special Permit Granting Authority (SPGA):

- A. As determined by the SPGA, all applicable information required for Full Site Plan Review pursuant to Section 13.
- B. Area and limits of work.
- C. Proposed date of termination.
- D. Description of excavation method and fate of excavated material including boulders and stumps.
- E. Hours of operation.
- F. Routes of transporting excavated material through the Town.
- G. Type and location of accessory structure.
- H. Placement and depth of loam over the area of work.

- I. Planting plan of the area showing suitable cover, including trees shrubs and grass using non-invasive plantings.

COMMENT: This Section creates a separate list of requirements for this type of earth removal that are not listed in the current Bylaw. The existing Bylaw does not treat excavation incidental to construction as a completely distinct activity. These plan requirements, and the criteria below, therefore clearly spell out what is expected of the applicant and make the permitting process more transparent.

6. Determination

In addition to the basic findings listed in Section 2, the Special Permit Granting Authority shall consider the following factors when developing a decision to deny, approve or approve with conditions.

- A. Whether the activity is injurious or dangerous to the public health or safety or harmful to the amenities of the vicinity of the Town.
- B. Whether the activity requires the transportation of materials over particular public streets on which undue congestion or hazards will be created, or on which undue injury to the roadway surface will be sustained.
- C. Whether the activity shall result in significant negative impacts to the natural environment.
- D. Whether the activity will result in a change of topography or cover disadvantageous to the most appropriate use of the land.
- E. Whether the activity will be terminated within one (1) year.

5-E. EARTH REMOVAL

1. Special Permit Required

Earth removal as a primary commercial use is defined as a quarry, sand or gravel pit, or other commercial operations for the extraction and/or processing of earth products, including the processing of materials imported from other premises. These operations shall be allowed only in the Industrial District through a Special Permit from the Board of Appeals.

2. Approval

Upon approval of the application for a Special Permit for earth removal as a primary commercial use, the Board of Appeals may issue a one-year (1) permit, renewable upon request by the applicant and favorable review by the Board of Appeals.

3. Application

A. Pre-Submittal Analysis

- (1) For the purposes of establishing a depth to seasonal high groundwater, monitoring wells shall be installed and monitored every other week for the duration, beginning December 1st through March 30th. This monitored period shall be done in the season immediately preceding the filing of the application. These wells shall be a requirement and will be used as a basis for the renewal permit if the operation is not completed within one year. The number and location of monitoring wells shall be one (1) for every two (2) acres of land with a minimum of three (3) wells spaced at a relatively even interval on the site; and
- (2) Each of the wells established for this pre-submittal analysis shall be sampled once for water quality at least four (4) weeks after the well is established for Volatile Organic Compounds (VOCs), Total Nitrogen (TN), Total Dissolved Phosphorus (TP) and Total Suspended Solids (TSS).

COMMENT: The language requiring basic water quality sampling above is designed to protect the Town and the property owner by providing a baseline water quality reading. If contamination occurs as a result of the mining operation, the Town will have some water quality data to use as a reference for pre-existing conditions. Likewise, if there is already some contamination present, the property owner will be protected against unfounded future allegations.

B. Application Contents

All applications submitted to the SPGA for removal of earthen material shall be accompanied by the following information and/or plans:

- (1) All applicable information required for Full Site Plan Review in compliance with Section 13;
- (2) Results of the monitoring well investigations required in Subsection 5-C.3.A including:
 - (a) Boring logs;
 - (b) Highest observed water level at each well;
 - (c) Water quality results; and
 - (d) Direction of groundwater flow.
- (3) Estimate of the quantity of earth to be removed from the site;
- (4) Length of operation (yearly review and renewal necessary);
- (5) Proposed travel routes for vehicles with entrances and exits from the site;
- (6) Proposed daily hours of operation;

- (7) A grid showing the order of excavation shall be supplied. The sequence of operation may be changed with the consent of the SPGA;
- (8) A log of soil borings. The number of borings taken will vary with the size and geological makeup of the site, but shall be a minimum of two (2) per acre. All borings shall be taken to a minimum of six (6) feet below the proposed finished grade;
- (9) Location of fueling areas for construction and post-construction vehicles;
- (10) Limits of excavation; and
- (11) Contingency plan for fuel spills or any other accidental spilling of toxic or hazardous materials.

COMMENT: This Section is largely the same as with the existing Bylaw with some clarification on the existing language. Also, Site Plan Review is more explicitly referenced and incorporated.

4. Performance Standards

- A. The following standards shall apply to any Special Permit application for earth removal as a primary commercial use. The SPGA may summarily condition a Special Permit approval to meet these standards by referencing this subsection. The SPGA may also modify any of the following performance criteria as part of a conditional approval in order to ensure that operations will not be injurious, dangerous, obnoxious or offensive to people in the general vicinity by reason of the emission of odor, fumes, dust, smoke, vibration, noise, heat, glare, or other nuisances observable at the lot lines or the immediate neighborhood.
 - (1) Operation hours, including warm-up and repairs of equipment shall be only between 7 A.M. and 3 P.M. on Monday through Friday, and loaded trucks may leave prescribed premises only within such hours. The frequency of loaded trucks leaving the premises shall not be greater than every three (3) hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load;
 - (2) The operation shall not require the transportation of materials over particular public streets on which undue congestion or hazards will be created, or on which undue injury to the roadway surfaces will be sustained;
 - (3) Access roads shall be constructed at an angle of ninety (90) degrees to the public way. All access roads shall be properly secured during the non-operational hours of the excavating process and this security will remain in effect until the property has been restored and seeding and planting have begun growth;
 - (4) All access roads leading to the public ways shall be treated with cut-back asphalt State Specification MC-2, and applied uniformly

- to the full width of the roadway at a rate of one (1) gallon per square yard. This application shall be applied for a distance of two hundred (200) feet back from said public ways. Refueling of equipment shall be done on an access road;
- (5) The permit holder shall be responsible for daily cleaning of spillage of materials on all public ways as a result of operation;
 - (6) Limits of excavation shall be set by stakes located every one hundred (100) feet with a minimum of three (3) feet exposed. A vertical control monument shall be installed in a readily accessible location;
 - (7) The maximum depth of the excavation shall be ten (10) feet above the highest water level as determined by the monitoring wells installed pursuant to Subsection 3.A;
 - (8) At the end of each working day no disturbed area shall be left at a greater slope than 45°;
 - (9) Excavations shall not be permitted at an elevation which is lower than the street or below the lowest existing elevation on the site, whichever is higher;
 - (10) When the depth of excavation is five (5) feet or less as measured through the entire width of the cross section, earth may be removed within twenty-five (25) feet of an abutting property line and shall be restored to a 4 to 1 slope;
 - (11) When the depth of excavation is greater than five (5) feet, as measured through the entire width of the cross section, earth may be removed within fifty (50) feet of abutting property lines and land shall be restored to a 6 to 1 slope;
 - (12) Active earth removal operation shall not exceed a total of five (5) acres at any one time. Each five (5) acre section shall be restored prior to the beginning of the next five (5) acre section. No trees shall be removed from the next five (5) acre section until the first five (5) acre section has been appropriately restored, but allowing for reasonable access to the next five (5) acre section;
 - (13) No area shall be excavated so as to cause accumulation of free standing water. Permanent drainage and siltation control shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds;
 - (14) All topsoil and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased;
 - (15) Any temporary shelters or building erected on the premises shall be screened from the public view. These structures shall be removed from the premises within thirty (30) days after termination of operation prior to the release of securities;
 - (16) No excavation shall be allowed closer than one hundred (100) feet to a natural stream or body of water. Natural vegetation shall be left and maintained on the undisturbed land;

- (17) All debris, stumps and boulders shall be disposed of at a facility specifically designed to perform this type of disposal;
- (18) Within thirty (30) days following completion of operation, final grading shall be established and shown on the approved topographical plan;
- (19) Retained subsoil and topsoil shall be re-spread over the disturbed area to a minimum depth equivalent to the depth of topsoil on the site prior to the beginning of the operation as determined by the soil boring data, or to a depth of twelve (12) inches compacted, whichever is more. The soil shall be seeded with perennial grass or legume mixture and fertilized or limed in accordance with soil tests to promote the growth of such grass or legume; and,
- (20) Upon completion of the operation, the land shall be left so that natural storm drainage leaves the property at the original storm drainage points and so that the area of drainage to any one point is not increased.

COMMENT: This Section consolidates the performance criteria from the existing Section 3-E(2)(b)(ii) and (iii). Much of the language has been clarified and more specific guidance on landscaping and drainage has been provided.

5. Surety

- A. A performance bond of fifteen thousand dollars (\$15,000) per acre or such other amount as determined sufficient by the Board of Appeals shall be posted in the name of the Town, including an enforceable consent to entry easement, assuring satisfactory performance in the fulfillment of the requirements of the permit as the Board may impose. The Board of Appeals may require, as a condition of issuing a Special Permit for earth removal under this Section, that the Applicant record a license authorizing the Town, its agents or contractors, to gain access to the property for the purposes of performing the restoration work secured by the bond or guaranty posted under this paragraph.

COMMENT: The performance bond amount required has been increased from \$5,000 (existing Bylaw) to \$15,000 to better reflect the up to date costs of restoring an acre of land.

- B. An "as-built" plan prepared by a Registered Professional Engineer or Registered Professional Land Surveyor showing all finished grades, depth of loam, drainage facility, location of buried debris, and states that the land conforms with the original plan, shall be prepared and approved by the Building Inspector prior to the release of the performance bond.

6. Existing Operations for the Extraction or Processing of Earth Products

A quarry, sand or gravel pit, or other operation for the extraction and/or processing of earth products (such as a crushing or screening plant) in lawful use on the date of adoption of this Bylaw may continue unless and until abandoned, or if operating under a prior permit, until the expiration thereof. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by either a prior permit or by a new permit issued under this Bylaw:

- A. The depth of any excavation shall not be increased below the grade of the lowest excavated area on the effective date of this Bylaw.
- B. The total area of excavation within the parcel shall not be increased by more than fifty percent (50%) over its area on said effective date.

SECTION 5-F. TEMPORARY USES

1. Applicability

- A. Temporary or seasonal uses such as Christmas tree sales shall be considered temporary uses and allowed in all commercial districts for a period not to exceed thirty-five (35) days.
- B. Temporary or seasonal uses that include a temporary structures such as a utility, storage or garden sheds, tents or other structures may be considered temporary uses and allowed in all commercial districts for a period not to exceed one hundred and eighty (180) days.
- C. The Building Inspector may allow temporary structures for the sake of public health, safety or welfare or to comply with any federal or state level regulatory programs for as long as is necessary to ensure public health, safety or welfare or to ensure continued compliance with applicable federal or state regulatory programs.
- D. Temporary uses which do not comply with this Bylaw may be authorized by the Building Inspector for public or charitable purposes.
- E. In any district, the Board of Appeals may authorize by special permit, a temporary building, structure or use not in conformity with the provisions of this by-law, provided that such use will not be detrimental or injurious to persons, property or improvements in the vicinity and the Town, Such authorization shall not be for more than one year at a time nor be extended over more than a total of three (3) years (whether or not consecutive).

2. Surety

- A. Before a temporary use shall be permitted, there shall be deposited with the Building Inspector, a sum as set forth in the Inspection Fee Schedule in cash for each permit. The deposit shall be refunded only upon the removal of the use by the owner or his agent.

COMMENT: New language was added to this section in an effort to clarify the types of uses that represent temporary uses or structures as well as to tighten the timeframe of these uses and to streamline permitting by designating the Building Inspector as the permit granting authority. Surety was also added to provide a mechanism to remove these uses/ structures in situations of non-compliance.

SECTION 5-G. BUFFER ZONES

1. For all non-residential uses located immediately abutting to or within a residential zone, the owner of the non-residential use shall provide a buffer zone on the property line between these two uses. Where the non-residential use is located immediately abutting the District Zoning Boundary Line (DZBL), the buffer zone shall abut and be parallel to the DZBL. Where the non-residential use is within the residential zone, the buffer zone shall abut and be parallel to the lot lines. The non-residential use may include the required setback in the establishment of buffers.

Except for uses listed in Section 5.B.3, buffer zones for all non-residential uses that abut residential uses shall be provided as follows:

Table 5-F.1.1

Any non-residential use in a residential district	Buffer width shall, at a minimum, match the minimum applicable setback (side or rear)
Central Business District (CBD) and Business District (B)	Twenty-six (26) feet minimum
Highway Business (HB), Limited Manufacturing (LM) and Industrial (IND)	Forty (40) feet minimum

Pending a review of the topography, buffers and other site conditions, the Planning Board may waive these buffer requirements to allow smaller buffers to the extent that such buffer areas will substantially further the purpose and intent of this section.

For private petitions acted upon favorably by Town Meeting where the petitioner requests a zoning change from CBD, B, LM or IND to R, RA, RB, or GR the owner of the property requesting the zoning change shall be responsible for all buffer requirements under this section. A buffer zone shall not be required of property abutting an area whose zoning has been changed from CBD, B, LM or IND to R, RA, RB, or GR.

2. Except as may be specifically permitted by the Planning Board under a Site Plan Review, buffer zone land shall not be disturbed during construction or thereafter unless planting or loaming is required. No natural growth of trees and shrubs, which tend to properly screen the view, shall be removed, nor shall the contours be changed unless to provide, through proper landscaping practice and design, a hill or elevation to properly screen the view and to make appropriate plantings upon any such hill or elevation.

3. Buffer zone areas which contain some natural growth but insufficient to provide a proper screen shall be planted with drought-resistant, non-invasive tree and shrub species. At least sixty percent (60%) of planting, shall be evergreen species, and at least fifty percent (50%) of the evergreen shall be spruce or have the equivalent foliage. Evergreen trees shall be not less than five (5) feet tall and shall be planted not more than seven (7) feet apart.
4. Buffer zone areas which contain little or no natural growth shall provide two (2) planted areas of trees parallel to the DZBL. The spaces between the trees in one area shall be centered upon a tree in the other area.
 - A. The first planting area shall begin seven (7) feet from the DZBL. Trees spaced as aforementioned may be planted anywhere within said area. Plantings shall consist of drought-resistant, non-invasive tree and shrub species with at least sixty percent (60%) evergreen species, of which at least fifty percent (50%) shall be spruce or have the equivalent foliage.
 - B. The second planting area shall begin sixteen (16) feet from the DZBL. Trees spaced as aforementioned may be planted anywhere within said area but must be spaced properly from any staggered planting in the first planting area. Planting shall consist of sixty percent (60%) evergreen species, of which at least fifty percent (50%) shall be spruce or have the equivalent foliage.
 - C. Plantings shall be made in accordance with proper landscaping practices and should take advantage of the contours and characteristics of the land.
 - D. In that area of the buffer zone where the planting of trees is not required, there shall be proper ground coverage to prevent the blowing of dust, dirt or refuse, and to prevent soil erosion. Wood chips or their equivalent shall not be used as a substitute for proper plantings in the buffer zone area. Any trees, shrubs or grasses which die or become diseased and cannot be restored to their screening function, shall be replaced.
 - E. Buffer zones shall also include a screened fence for the purpose of stopping debris from non-residential uses from entering the residence districts and to further screen the view. Any debris accumulating in the buffer zone shall be removed every thirty (30) days. The fence shall be approximately parallel to the DZBL, of good workmanship, and properly maintained and no signs shall be posted upon the side of the fence facing the residential district except as outlined in Section 7 of the Zoning Bylaws.
 - F. As applicable under Section 13, all fences, trees and plantings for all uses shall be subject to Site Plan Review.
 - G. In approving a site plan, the Planning Board may modify, at the applicant's request, the requirements of this Subsection with respect to buffer zones, provided that such modifications are in keeping with the intent of this section and provide adequate screening for residential uses involved, prevent the blowing of dust, dirt, refuse and prevent soil erosion.