TOWN OF ATHOL, MASSACHUSETTS

ZONING BYLAWS

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As amended to October 18, 2010
As amended to June 13, 2011
As amended to October 17, 2011
As amended to June 11, 2012

TOWN OF ATHOL, MASSACHUSETTS
ZONING BYLAW

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ARTICLE I ADMINISTRATION AND PROCEDURE

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1.1 Administration - This By-Law shall be enforced by a zoning agent, appointed by the Selectmen as a local inspector under the State Building Code. A permit is required for the construction, alteration or moving of any building or structure, and for the new use of any building, structure or land. No permit shall be issued unless there is compliance with this By-Law.

1.1.1 Applications for permits shall be accompanied by two prints of a plan of the lot, drawn to scale, showing the actual dimensions of the lot, exact location and size of any existing or proposed buildings, and streets and ways adjacent to the lot.

1.1.2 Any person violating any of the provisions of this By-Law may be fined not more than $100.00 for each offense. Each day that such violation continues shall constitute a separate offense.

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

1.2 Board of Appeals

1.2.1 There is hereby established a Board of Appeals of five members and two associates to be Appointed by the Selectmen for a term of five years so that the term of one member expires each year.

1.2.2 Each year the Board of Appeals shall elect a chairman from within its own membership, and a clerk.

1.2.3 A member of the Board of Appeals can only be removed for cause by the Selectmen, and Only after written charges have been made and a public hearing has been held.

1.2.4 Vacancies on the Board of Appeals shall be filled for unexpired terms in the same manner as original appointments.

1.2.5 The Board of Appeals shall serve without remuneration.

1.2.6 The Board of Appeals shall act on all matters within its jurisdiction under Chapter 40A of the General Laws, and this By-Law, in the manner prescribed in Chapter 40A of the General Laws. The Board shall have the following powers:

1.2.6.1 To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A, General Laws, or by the Regional Planning Agency, or by any person, including an officer or board of the city or Town, or of an abutting city or town aggrieved by an order or decision of the inspector of Buildings, zoning agent, or other administrative official, in violation of any provision of Chapter 40A, General Laws, or by this By-Law.

1.2.6.2 To hear and decide applications for special permits as provided by this By-Law, when subject to any general or specific provisions set forth, and subject to conditions, safeguards and limitations on time or use imposed by the Board of Appeals.

1.2.6.1.1 Special permits may be issued only for use which are in harmony with the general purpose and intent of this By-Law.

1.2.6.1.2 Special permits shall normally be granted unless, because of a condition peculiar to the particular case but not generally true for similar permitted uses on other sites in the same district, it appears that nuisance, hazard, or congestion will be created, or for other reasons there will be substantial harm to the neighborhood.

1.2.6.1.3 Special permits shall only be issued following public hearings held within sixty-five days after the filing of an application with the board of appeals, a copy of which shall forthwith be given to the town clerk by the applicant.

1.2.6.1.4 Special permits shall lapse within two years, and including such time required to pursue or await the determination of an appeal pursuant to Chapter 40A, General Laws, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or , in the case of a permit for construction, if construction has not begun by such date except for good cause.

1.2.6.3 To hear and decide petitions for variances as set forth in Chapter 40A, General Laws, Section 10.

1.3 Validity – The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

1.4 Applicability

1.4.1 Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

1.4.2 This By-Law shall not apply to buildings or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this By-Law or amendments thereto.

1.5 Notification - Notification of public hearings on any proposed changes in the Zoning Map shall follow the statutory requirements under M.G.L. c40A. Amendment effective July 9, 1997.

1.6 Effective Date – This By-Law, and any amendment to it, shall take effect upon the date on which such adoption or amendment was voted upon by town meeting, subject to subsequent approval by the attorney general and either publication in a town bulletin or pamphlet and posting or publication in a newspaper, all pursuant to Chapter 40, General Laws, Section 32.

ARTICLE II USE AND INTENSITY REGULATIONS

2.1 Establishment of Districts

2.1.1 The Town of Athol is hereby divided into the following districts:

Multi-Family Residential	RA
Medium Single-Family Residential	RB
Rural Single-Family Residential	RC
Central Commercial	CA
Neighborhood Commercial	CB
General Commercial	G
Industrial Commerical	I

Amended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007.

2.1.2 The Town of Athol hereby contains the following overlay districts:

Groundwater Protection District
Flood Plain District

Descriptions of these districts and associated bylaw requirements are contained in Sections 3.11 and 3.13.
(Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

2.1.3 Said districts are located and bounded as shown on a map entitled "Zoning Map" dated October 1, 2008, on file in the office of the Town Clerk. The Zoning Map, with all explanatory matter thereon, and only amendments thereto, is hereby made a part of this By-Law. *(Amended at the May 4, 2009 Annual Town Meeting. Approved by the Attorney General on September 21, 2009.)*

2.1.4 Where a district boundary line divides any lot existing at the time such line becomes effective, the regulations which are more restrictive shall apply.

2.1.5 Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street center lines, boundary or lot lines, block mid-points, or the channel of a stream, are actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines, they shall be treated as exactly parallel, perpendicular, or radial thereto. When not locatable in any other way, boundaries shall be determined by the graphic scale on the map.
(A*mended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007.)*

2.1.6 When any lot is located partially in Athol and partially in an abutting town, the regulations which are less restrictive shall apply. A building permit shall be obtained from both towns.
(Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

2.2 Use Regulations

2.2.1 Buildings or structures shall be erected or used and premises shall be used only as set forth in the "Use Regulations Schedule". Symbols employed shall mean the following:

Y - A Permitted Use.
N - A prohibited use.
SP - Use authorized under special permits as provided for in Section 1.2.6 herein.
(*Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.*)

2.2.2 Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility, or when equally specific, the more restrictive.

2.3 Use Regulation Schedule	RA RESIDENCE A	RB RESIDENCE B	RC RESIDENCE C	CA CENTRAL COMMERCIAL	CB NEIGHBORHOOD COMMERCIAL	G GENERAL COMMERCIAL	I INDUSTRIAL COMMERCIAL
AGRICULTURAL USES							
Agriculture 1,2	Y	Y	Y	Y	Y	Y	Y
Horticulture 2	Y	Y	Y	Y	Y	Y	Y
Floriculture 2	Y	Y	Y	Y	Y	Y	Y
Viticulture 2	Y	Y	Y	Y	Y	Y	Y

Nursery or Greenhouse							
Private	Y	Y	Y	Y	Y	Y	Y
With Retail Sales	N	N	SP	Y	Y	Y	Y
Wholesale Only	SP	Y	Y	Y	Y	Y	Y
Roadside Stand 2,3	Y	Y	Y	Y	Y	Y	N
COMMERCIAL USES							
Adult Entertainment[6]	N	N	N	N	N	SP	N
Animal Kennel or Hospital	N	N	SP	N	SP	SP	SP
Automatic Amusement Arcades 5	N	N	N	SP	N	SP	SP
Bookstores							
Non-Adult	SP	SP	SP	Y	Y	Y	SP
Business or Professional Offices	SP	SP	SP	Y	Y	Y	SP
Funeral Home	SP	SP	SP	N	Y	Y	N
Home Occupation	Y	Y	Y	Y~~8~~	Y	Y	Y
Motor Vehicles, Boat or Farm Implements:							
Sales or Rentals	N	N	N	N	SP	Y	SP
Light Service	N	N	N	N	SP	Y	SP
General Repairs	N	N	N	N	N	SP	SP
Body Repairs – Amendment effective Sept 19, 1983	N	N	N	N	N	SP	SP
Used parts and dismantling	N	N	N	N	N	N	N
Motel or Hotel	N	N	N	Y	Y	Y	SP
Parking							
Accessory	Y	Y	Y	Y	Y	Y	SP
Business	SP	N	SP	Y	Y	Y	SP
Public	N	N	N	Y	Y	Y	Y
Print Shop	SP	SP	SP	Y	Y	Y	Y
Restaurant							
Indoor	N	N	N	Y	Y	Y	SP
With Outside Service	N	N	N	SP	SP	SP	SP
Retail Business	SP	SP	SP	Y	Y	Y	SP
Wholesaling							
Without Storage	N	N	N	Y	Y	Y	SP
With Storage	N	N	N	N	N	Y	SP
Accessory to Business							
Residential use of upper floors in							
Building used for commercial purposes 9	SP	N	N	Y	SP	SP	N
Wireless Telecommunications Facilities	N	N	Y	N	N	N	Y
Wireless Transceiver Antenna Arrays	Y	Y	Y	Y	Y	Y	Y

(*Amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012)*

INDUSTRIAL USES							
Industrial							
General	N	N	N	N	N	SP	SP
Light, in existing bldg	SP	N	SP	SP	SP	Y	SP
Light, in new bldg	N	N	N	N	N	Y	SP
Bulk Storage 10	N	N	N	N	N	Y	SP
Contractor's Yard 10	N	N	N	N	N	Y	SP
Earth Removal	SP	SP	SP	N	N	SP	SP
Junk Yard	N	N	N	N	N	N	N

Radio Transmission	N	N	SP	N	N	Y	SP
Transport Terminal	N	N	N	N	N	SP	SP
Warehouse	N	N	N	N	N	Y	SP

(Amended at the April 30, 2007 Annual Town Meeting, Approved by the Attorney General on July 18, 2007.)

INSTITUTIONAL USES

Municipal Use	Y	Y	Y	Y	Y	Y	Y
Religious Use 11,12	Y	Y	Y	Y	Y	Y	Y
Educational Use 11, 12	Y	Y	Y	Y	Y	Y	Y
Nursery, for profit school	Y	SP	Y	N	Y	N	SP
Private, for profit school	N	N	N	Y	Y	Y	N
Social Day Care Center	SP	SP	SP	SP	SP	SP	SP
(Amendment effective May 1, 1991)							
Day Care Center	SP	SP	SP	SP	SP	SP	SP
(Amendment effective May 4, 1992)							
Cemetery	Y	Y	Y	N	N	N	N
Hospital	Y	Y	Y	Y	Y	Y	SP
Philanthropic Institution	Y	Y	Y	Y	Y	Y	N
Public Utility							
Building w/o Service Area 13	Y	Y	Y	Y	Y	Y	Y
Building w/ Service Area	N	N	N	N	SP	Y	Y
Service Area, no bldg	N	N	N	N	N	SP	SP

RECREATIONAL USES

Boathouse							
Private	Y	Y	Y	Y	Y	Y	N
Public	SP	SP	SP	N	Y	Y	N
Camping							
Commercial	N	N	SP	N	N	N	N
Supervised	SP	N	Y	N	N	N	N
Club	SP	N	SP	Y	Y	Y	N
Golf Course	Y	Y	Y	Y	Y	Y	N
Recreation							
Indoor commercial	N	N	N	Y	Y	Y	SP
Municipal	Y	Y	Y	Y	Y	Y	SP
Outdoor Commercial	N	N	N	N	N	SP	SP
Private	Y	Y	Y	Y	Y	Y	SP
Sportsman's Club, game preserve	Y	Y	Y	Y	Y	Y	N
Stables							
Private 15	N	SP	SP	N	N	N	SP
Public 15	N	N	SP	N	N	N	SP

(*Amended at the October 18, 2010 Fall Town Meeting. Approved by the Attorney General on February 8, 2011.)*

RESIDENTIAL USES

Dwelling							
Single Family	Y	Y	Y	N	Y	Y	Y20
Two-Family	Y	N	SP	N	Y	Y	Y20
Multi-Family up to Four Families	Y	N	SP	N	Y	SP	SP20
Multi-Family over Four Families	SP	N	SP	N	SP	SP	SP20
Mobile Home							

Single	N	N	N	N	N	N	N
Temporary Single 16	Y	Y	Y	Y	Y	Y	Y
Mobile Home Park	N	N	N	N	N	N	N
(Amendment at May 1, 2000, Approved by Atty General on Sept., 1, 2000)							
Conversion: single family to multi-family 17	SP	N	SP	N	N	SP	N
Boarding House	SP	N	SP	N	N	SP	N
Guest House							
Commercial	SP	N	SP	N	Y	Y	N
Private	Y	Y	Y	N	SP	SP	N
Assisted Living Facilities/Residences/Communities	SP	N	SP	N	N	SP	SP
(Amended at the June 11, 2012 ATM. Approved by the Att. Gen. on Sept. 24, 2012)							
Nursing, Convalescent, or Rest Home	SP	N	SP	N	SP	SP	N
(Amended at the April 30, 2007 ATM. Approved by the Att. Gen. on July 18, 2007)							
Accessory Agriculture	N	SP4	SP4	N	N	N	SP4
(Amended at the October 17, 2011 FTM. Approved by the Att. Gen on Feb. 27, 2012.)							
OTHER USES							
Accessory Uses to Activities Permitted 18							
as a Matter or Right for Scientific Research							
or Scientific Development or Related Production	SP	SP	SP	SP	SP	SP	SP
Accessory Uses	Y	Y	Y	Y	Y	Y	Y
Airport	N	N	SP	N	N	N	SP
Mobile Structures	N	N	N	N	N	N	N
Signs 19							
Temporary 19	Y	Y	Y	Y	Y	Y	Y
Small-Wind Energy Systems	Y	Y	Y	N[7]	Y	Y	Y
Large-Wind Energy Systems (*Adopted at the June 13, 2011 Annual Town Meeting. Approved by Attorney General on September 26, 2011)*	N	N	Y	N	N	N	Y
Billboards	N	N	N	N	N	N	N
Permanent 19 (See sign reg. Sec. 3.9)							
Temporary Structures	Y	Y	Y	Y	Y	Y	Y
Ground-Mounted Solar Photvoltaic Installations (*Adopted at the June 10, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)*	Y	Y	Y	Y	Y	Y	Y

1. As defined by Massachusetts General Laws, Chapter 40A, Section 3.
2. Provided that no structures housing poultry are within 100 ft. of any street or property line. *(#1 & 2 amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)*
3. For the sale of produce, wine and dairy products, a majority of which have been produced by the owner of the land on which the roadside stand is located and provided that the stand is not within 5 ft. of the street line, nor within 20 ft. of a lot line.
4. Per Section 3.23, a Special Permit is not required for the keeping of twelve (12) poultry hens or less. (*Amended at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012.)*
5. Automatic amusement includes devices licensed under General Laws, Chapter 140, Section 177A, Section 181, or both as appropriate.
6. As defined by General Laws, Chapter 40A, Section 9A.
7. In the Central Commercial District, roof-mounted, building-integrated or building-mounted vertical-axis wind turbine systems are permitted; stand-alone, tower-mounted systems are not permitted in this zone. (*Amended at the May 4, 2009 Annual Town Meeting. Approved by the Attorney General on September 21, 2009.)*
8. Omitted Oct. 16, 2006 Fall Town Meeting. Reserved for future use.
9. In a new building or conversion of an existing building to accommodate both residential and commercial uses. Each dwelling unit to be at least 600 sq. ft.
10. Provided no open storage within 50 ft. of a street or residence. All such uses shall provide visual screening from adjacent properties through the use of trees, shrubs or other natural vegetated buffers in addition to any fences or other man-made barriers that may be incidental to the use.

11. Provided that such use is on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation.
12. Subject to the intensity and dimensional regulations of sections 2.4 and 2.5, and the parking requirements of 3.5.
13. Provided that the land or structure used, or to be used, by a public service corporation by be exempted in particular respect from the operation of this by-law if, upon petition of the corporation, the Department of Public Utilities shall, after notice given pursuant to General Laws, Chapter 40A, Sec. 11, and public hearing in Athol, determine the exemptions required, and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.
14. Omitted May 5, 2008 Annual Town Meeting. Reserved for future use.
15. Provided that no stables are located within 50 ft. of a lot line or street line. *(Amended at the October 19, 2009 Fall Town Meeting. Approved by the Attorney General on February 18, 2010.)*
16. Provided that such use shall only be by an owner, occupier or both, of a residence which has been destroyed by fire or other natural holocaust, and that the mobile home shall provide a temporary residence for no longer than 12 months while the residence, which was destroyed, is being rebuilt. Such temporary mobile home shall be subject to the provisions of the state sanitary code.
17. Each dwelling unit to be at least 500 sq. ft.
18. Provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good even though the accessory use does not have to be located on the same parcel of the principal use. Accessory uses specifically identified in other sections of the Bylaw, including but not limited to trailers and roadside stands, shall be allowed in accordance with those provisions.
19. Subject to the Sign Regulation Schedule, section 3.9.4
20. Single family and two-family are permitted and Multi-families up to four and multi-families more than four require a Special Permit only if all the structures are within 175 feet of any Industrial Commercial District boundary or within 175 feet of any public way that existed in the Industrial Commercial District at the time of the adoption of the bylaw. *(Amended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007. Amended at the October 15, 2007 Fall Town Meeting. Approved by the Attorney General on January 22, 2008.)*

2.4 <u>Intensity of Use and Dimensional Regulations</u>

2.4.1 No lot on which a building is located in any district shall be reduced or changed in size or shape so that the lot fails to conform to the intensity of use schedule except when a portion of a lot is taken or conveyed for a public purpose.

2.4.2 No more than one principal building shall be permitted per lot with the following exceptions:
1. Industrial and commercial developments in the Industrial Commercial District
2. Industrial and commercial developments for lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts
3. Assisted Living Facilities/Residences/Communities in all zoning districts for which they are permitted. These exceptions shall require a Special Permit as provided for in section 1.2.6.

(*Amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)*

2.4.3 No building shall be erected or used or premises used except in conformity with the intensity of use schedule, with the exceptions covering lots shown on subdivision plans, plans endorsed by the Planning Board as not requiring approval under the Subdivision Control, or otherwise as specified in Section 6 of Chapter 40A of the General Laws.

2.4.3.1 Any lot located in the Town of Athol which was either lawfully laid out by plan or deed duly recorded, as defined in section eighty-one L of Chapter forty-one or was shown of a plan endorsed with the words, "approval under the subdivision control law not required" or words of similar import, pursuant to section eighty-one P of Chapter forty-one, which complies at the time of such recording or such endorsement, which ever is earlier, with the minimum area, frontage, width, and depth requirements, if any, of the zoning by-law in effect in the Town of Athol, not withstanding the adoption or amendment of provisions of this zoning by-law imposing minimum area, frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement may thereafter be built upon for single and two-family residential use if, at the time of the adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district; and provided further that at the time of building (a) such lot has an area of five thousand square feet and a fifty foot frontage or

more, is in a district zoned for single or two-family residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the zoning ordinance or by-law in effect in such city or town and (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setbacks, if any, in effect at the time of such recovery or such endorsement, whichever is earlier. Furthermore, except as to area, frontage, width, depth and yard requirements, such structure shall comply with all other requirements for such structure in effect at the time of building.

2.4.3.2 Any increase in area, frontage, width, yard or depth requirement of this zoning by-law shall not apply for a period of five years from its effective date or for five years after January first, nineteen hundred and seventy-six, whichever is later, to a lot for single and two-family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January first, nineteen hundred and seventy-six, and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred square feet of area and seventy-five feet of frontage, and provided that said five year period does not commence prior to January first, nineteen hundred and seventy-six, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership.

2.5 Dimensional Measurements

2.5.1 No part of any yard or other open space required for the purpose of complying with the provisions of this by-law shall be included as part of a yard or other open space similarly required for another building.

2.5.2 In all districts except the CA District, a corner lot shall provide visibility unobstructed at intersections. No sign, fence, wall, tree, ledge, or other vegetation, and no building or other structure shall be more than three and one-half feet and less than six feet above the established street grade within the area formed by the intersecting street lines and a straight line joining said street lines at a point which is twenty-five (25) feet distant from the point of intersection measured along said street lines.

2.5.3 In the case of corner lots, structures shall be set back from streets the minimum front yard distance for the entire length of lot frontage. In the case of through or reverse frontage lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, minimum front yards shall be provided on all frontages.

2.5.4 Corner, through and reverse frontage lots shall have no real lot lines or yards, but only front and side lot lines and yards.

2.5.5 On a corner lot, the length of lot frontage shall be equal to twice the required frontage, and shall be measured along the tangents to the front lot line from the points of intersection of the side lot lines to the point where the tangents intersect.

2.5.6 On a lot having frontage separated by intervening land, the frontage may not be added together to comply with the minimum lot frontage requirements. Amendment effective May 4, 1987.

2.6 Intensity of Use Schedule

Minimum Lot Requirements	RESIDENTIAL A RA	RESIDENTIAL B RB	RESIDENTIAL C RC	CENTRAL COMMERCIAL CA	NEIGHBORHOOD COMMERCIAL CB	GENERAL COMMERCIAL G	INDUSTRIAL COMMERCIAL I
Area, Total or First Dwelling Unit (1,000 sq. ft.)	8	10	*44	0	10	10	40
Area, Each Additional Unit (1,000 sq. ft.)	4	-	44	-	2	2	-
Width (feet)	65	70	160	0	115	75	200

Frontage (feet)	65	70	*160	0	115	75	200
Depth (feet)	80	100	*175	0	80	80	150
Minimum Yard Requirements							
Front (feet)[c]	25	25	30	0	25	0[a]	40
Side (feet)[c]	10	15	20	0	0[a]	0[a],b	30
Rear (feet)	30	30	30	15	15[a]	15[a]	30
Maximum Building							
Maximum Lot Coverage (%)	20	15	15	50	30[a]	40[a]	35
Height (feet)	35	35	35	50[e]	35	45	45
Floor Area Ratio	0.3	0.2	0.2	1.0	0.5a	0.5a	0.4
Minimum Landscaping							
Between Street Line and Building or Parking Lot (feet)	20	25	30	0	10[a]	0[a]	40
Overall Landscaping per Dwelling Unit (sq. ft.)	2,000	-	3,000	-	2	2	-
Overall Landscaping Percent of Lot Area	-	-	-	0	0	0	20

a. Permitted residential uses other than those that are accessory to commercial use on upper floors must comply with the requirements associated with the RA District.
b. Increase to 15 feet when abutting a residential district. Increase n the applicable side yard only
c. Corner lot shall maintain front yard requirements for each street frontage.
d. Uses and buildings must comply with regulations for the underlying district.
e. Building shall not exceed four stories.

- Amendment effective May 5, 1986.

(Amended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007. Amended at the October 15, 2007 Fall Town Meeting. Approved by the Attorney General on January 22, 2008)

ARTICLE III GENERAL REGULATIONS

3.1 Non-Conforming Uses - The lawful use of any structure, building, sign or land existing at the time of the enactment or subsequent amendment of this By-Law, may be continued although such structure, building, sign or use does not conform with provisions of the By-Law, subject to the following conditions and exceptions: (*Amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on Sept. 24, 2012.)*

3.1.1 Abandonment – Any non-conforming use which has been abandoned or discontinued for a period of two years or more shall not be reestablished and any future use shall conform with the By-Law.

3.1.2 Restoration – Any non-conforming structure or building damaged by fire, storm, or other causes may be repaired or rebuilt as a non-conforming structure or building provided that such rebuilding does not exceed the structure's or building's market value at time of catastrophe by more than 75%. Any restoration beyond that extent, and any restoration not completed within two years after such catastrophe, must conform to the provisions of this Bylaw. (*Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

3.1.3 Changes – Once changed to a conforming use, no structure, building, or land shall be permitted to revert to a non-conforming use.

3.1.4 The Board of Appeals may authorize, under a Special Permit, a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood

or on property in the vicinity. Said Board may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. (*Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

3.1.5 Single or two-family residential building or structure may be reconstructed, extended or structurally changed if the non-conforming nature of the building or structure is not increased by altering, reconstructing, extending or structurally changing the building or structure in a manner which further increases the pre-existing nonconformity from that required by the applicable provisions at the time of building.

3.2 Accessory Buildings and Uses

3.2.1 No accessory building or structure, except a permitted sign or a roadside stand, shall be located within a required front yard area.

3.2.2 Detached accessory buildings or structures may be located in the rear or side yard areas and on the same lot as the principal building provided that the maximum lot coverage defined in section 2.6 is not exceeded.

3.2.3 Detached accessory buildings or structures shall not be located closer than ten (10) feet from other structures, including from the principal building.

3.2.4 Detached accessory buildings or structures greater than 100 square feet shall be a minimum distance of ten (10) feet from side and rear lot lines.

3.2.5 Detached accessory buildings or structures of 100 square feet or less shall be a minimum distance of three (3) feet from side and rear lot lines.

3.2.6 As per section 1.4.2 (Lots existing before this bylaw became effective), accessory buildings or structures on building lots having less than 8,000 square feet, may be constructed to within 3 feet of a lot line.

(*Amended at the October 20, 2008 Fall Town Meeting. Approved by the Attorney General on February 9, 2009.)*

3.3 Swimming Pools

3.3.1 All outdoor swimming pools shall be subject to the following:

3.3.1.1 All outdoor swimming pools shall be subjected to the Massachusetts State Building Code as applicable.

3.3.1.2 All outdoor swimming pools that are subject to the Massachusetts State Building Code must observe all yard requirements applicable to the principal structures.

3.3.1.3 Permits for the construction of outdoor swimming pools are required from the building department and, if applicable, from the Board of Health.

(Amended at the October 20, 2008 Fall Town Meeting, Approved by the Attorney General on February 9, 2009)

3.4 Home Occupation

3.4.1.1 Home occupations proposed by right or through a Special Permit in accordance with Table 2.3 shall conform to the following minimum standards. (*Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

3.4.1.2 The occupation or profession shall be carried on wholly within the principal building, or within a building or other structure accessory thereto, provided that no more than twenty-five (25%) percent of the floor area of the residence is used for the purpose of the home occupation or the professional use.

3.4.1.3 Not more than one person outside the family shall be employed in the home occupation.

3.4.1.4 There shall be no exterior display, no exterior sign, except as permitted under the Sign By-Law, no exterior storage of materials and no other exterior indication of the home occupation or other variation from the residential character of the principal building.

3.4.1.5 No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

3.4.2 A home occupation includes, but is not limited to, the following:

Art Studio, commercial artist, photography
Day Care
Musician
Hairdresser, Barbershop
Real Estate Offices, Broker, Insurance
Dressmaker, Millinery, Handicraft
Professional office of a physician, surgeon, optometrist, upholsterer, veterinary, accountant, dentist, lawyer, engineer, architect, landscape architect, or clergyman, within a dwelling occupied by the same.

3.4.3. A home occupation shall not be interpreted to include the following:

Clothing Rental
Restaurants
Dancing Instruction
Convalescent Homes
Stores, Trades or Business Not Herein Excepted
Tourist Home
Commercial Stables and Kennels
Band Instrument Instruction
Mortuary Establishments

3.4.B Home Office – an activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. Home offices are permitted if conforming to the following conditions.

3.4.B.1 The proprietor must reside in the principal building.

3.4.B.2. The business use is secondary to the primary use of the property as a residence.

3.4.B.3. Anyone associated with the home office must reside in the principal building.

3.4.B.4. No more than twenty-five percent (25%) of the floor area of the residence is to be used for the purpose of the home office.

3.4.B.5 The use shall not require the regular presence of the consumer of the good(s) or service(s).

3.4.B.6. The use shall show no external evidence of the home office, no sign, no outside storage or equipment or supplies. Any outward manifestation of the home office (such as traffic congestion, noise, public service and utility demands) shall not be unlike those of dwelling units in the neighborhood in which the dwelling is located.

3.4.B.7. No more than one (1) commercial vehicles with a gross vehicle weight (GVW) more than 10,000 GVW shall be parked on the premises.

(*Adopted at the October 17, 2005 Fall Town Meeting. Approved by the Attorney General on February 28, 2006.)*

3.5 Conversion of Dwellings – Conversion of dwellings existing at the time of the adoption of this provision is permitted as scheduled in Section 2.3, subject to the following additional conditions:

3.5.1 That the lot area be not less than five thousand square feet.
3.5.2 That two off-street parking space per unit be provided. Amendment effective June 11, 1990.
3.5.3 That at least 500 square feet of landscaped open space be provided per dwelling unit.

3.6 Parking Requirements
The following parking requirements shall apply to all premises in all districts except CA Districts. The use of no premises shall be authorized or extended, and no building or structure shall be erected or enlarged, unless there is provided sufficient off-street parking space on paved areas within a reasonable distance of the principal building for all vehicles whose occupants use the premises. Minimum requirements are as follows:

3.6.1 Retail Business – One space for each one hundred and fifty square feet of floor space devoted to retail business plus one space for each two employees or nearest multiple thereof.

3.6.2 Business Offices – One space for each one hundred and fifty square feet of floor area.

3.6.3 Theater, Funeral Home and Places of Assembly, including religious and educational facilities – One space for each four seats, or one hundred square feet of floor area, whichever is the greater requirement.

3.6.4 Hotels, Inns, Motels or Guest Houses – one space for each rental unit, plus one space for each four employees.

3.6.5 Restaurants – One space for each three seats plus one space for each three employees or nearest multiple thereof.

3.6.6 Dwellings – Two spaces per dwelling unit.

3.6.7 Industrial and Wholesale Uses – One space for every 1.3 employees based on the maximum number of employees the plant is designed to employ, except one for every 2.0 employees if located in the general district.

3.6.8 Bowling Alleys – Four spaces for each alley.

3.6.9 Boarding House – One space for each sleeping room.

3.6.10 Hospital – Four spaces for each 800 sq. ft. of floor area plus one space for each two employees.

3.6.11 Other uses – All other types of commercial and industrial uses not specifically mentioned shall have at least one space for each three employees plus one space for each 150 sq. ft. ground floor area. One space shall be provided for each 300 sq. ft. on other than ground floor.

3.6.12 Egress – Not more than one entrance and one exit shall be permitted onto a street from any parking area per 200 ft. of frontage or fraction thereof in a commercial district, and per 300 ft. of frontage or fraction thereof in other districts. Each entrance and exit shall not be more than forty feet in width.

3.6.13 Municipal Uses – One space for 150 square feet of floor area open to the public, plus one space for each employee. *(Approved at the October 15, 2001 Fall Town Meeting. Approved by the Attorney General on January 10, 2002.)*

3.7 Loading Requirements - The following minimum loading requirements shall apply to all industrial and commercial premises in all districts, except that any isolated lot or combination of contiguous lots in the CA district under common ownership totaling less than 20,000 sq. ft. of area shall be exempted.

3.7.1 Retail Business – For each retail business with gross floor area from 5,000 to 8,000 sq. ft. at least one berth. Additional berths at the rate of one berth for each additional 8,000 sq. ft. or nearest multiple thereof.

3.7.2 Business Offices – For each office building with gross floor area of 4,000 sq. ft. or more at least one berth shall be provided.

3.7.3 Industrial Uses – For industrial plants and similar uses up to 8,000 sq. ft. at least one berth shall be provided. For larger floor areas additional berths shall be provided as required by the Board of Selectmen, adequate for off-street loading and unloading.

3.8 Noise , Litter and Smoke Standards

3.8.1 No activity shall be permitted in any district (except general industry in the industrial district on special permit from the Board of Appeals) unless it can be demonstrated that its operation will be so conducted that the following standards will be met.

3.8.1.1 No noise, sound from public address or other amplification systems, vibration, or flashing shall be normally perceptible more than 350 ft. from the premises if in an industrial or general district, more than 50 feet from the premises if in a commercial district, and more than 20 feet from the premises if in a residential district. Interferences originating in an industrial or general district shall not normally be perceptible more than 150 feet within a commercial district, or more than 100 feet within a residential district.

3.8.1.2 Cinders, dust, fumes, gases, odors, radiation, electro magnetic interference, or trash or other waste shall be effectively confined to the premises or disposed of.

3.8.1.3 Smoke density shall not exceed #2 of the Ringelmann scale for more than 10% of the time, and at no time shall exceed #3 on that scale.

3.8.1.4 Operation at any time such that these standards are violated, subsequent to issuance of a permit on the grounds that they would be met, shall constitute a zoning violation.

3.9 Sign Regulations

3.9.1 Illumination, Motion, Sound, Location Regulations

3.9.1.1 Signs shall be illuminated only by internal illumination or shielded light directed at the sign, without causing glare for motorists, pedestrians or neighboring premises.

3.9.1.2 Flashing or animated signs, strings of flags, spinners or other similar devices which tend to unduly divert the attention of motorists shall not be permitted in any district.

3.9.1.3 Loud noise shall not be part of any sign. However, sound that reaches the public from an establishment may be permitted if it is not used as an advertising or an attention-getting device such as clock chimes or seasonal music.

3.9.1.4 Private signs shall generally be attached to buildings and shall not project over public streets and vehicle rights-of-way. Signs shall not be attached above the roof line of a building.

3.9.1.5 No free standing sign shall be located in such a manner that it substantially blocks another sign or obstructs vehicular or pedestrian traffic.

3.9.1.6 Directional Signs

(a) Directional signs may be located off-site and at intersections of town roads provided they do not obstruct vision on the right of way.
(b) Directional signs may bear only the name of a business or town property, its' address, logotype, distance and directional arrow.
(c) Directional signs shall not be illuminated.
(d) The cost of the signs, their installation and maintenance shall be the sole responsibility of the sign owners.
(e) Sign owners shall remove the sign if the business is moved to a new location and the sign becomes invalid.

3.9.1.7 Special Event Signs may be located off-site with the approval of the Board of Selectmen.

(a) Special Event Signs shall not be erected more than 30 days prior to the event and shall be removed by the event organizer within 24 hours following the event.

3.9.2 All signs, whether erected before or after the effective date of this By-Law shall be maintained in a safe condition to the satisfaction of the building inspector.

3.9.3 Existing signs, excluding billboards, shall be subject to the nonconforming regulations provided in this By-Law.

3.9.4 Sign Regulation Schedule

3.9.4.1 Signs for non-residential activities in non-residential zones

(Amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012).

3.9.4 Sign Regulation Schedule

3.9.4.1 Signs for non-residential activities in non-residential zones

SIGN TYPE	NUMBER PERMITTED	MAXIMUM SIZE IN SQ. FT.	LOCATION/OTHER	TYPE OF PERMIT
1. Permanent				
a. Accessory	Unlimited	Total area of all signs shall not aggregate more than 2.5 sq. ft. ft. of lot frontage providing access	Wall, iconographic or hanging	Building
b. Building Directory	1	40 sq. ft.	Free standing, wall or hanging.	* Building
c. Directory	Unlimited	-	To be included in a building directory sign.	* Building
d. Identification	2	Total area of both signs shall not aggregate more than 100 sq. ft. in area.	Free standing, hanging; may not be not located in required side or rear yard.	Building
2. Temporary (Permitted up to twelve (12) months)				
a. Sale or Rent	1		Unlighted	None
b. Construction	1		Unlighted	None
c. Window	Unlimited		Illuminated by building illumination	None
d. Special Event	2	32 sq. ft.	Unlighted	On-Site: None Off-Site: Board of Selectmen
e. Directional	Unlimited	40 sq. ft.	Unlighted	Building
f. Political	Unlimited		Unlighted	None
g. Banners			Unlighted	Building

* Amendment effective May 5, 1985.

3.9.4 Sign Regulation Schedule

3.9.4.2 Signs for non-residential activities in residential zones

SIGN TYPE	NUMBER PERMITTED	MAXIMUM SIZE IN SQ. FT.	LOCATION/OTHER	TYPE OF PERMIT
1. Permanent				
a. Accessory	Unlimited	Total area of all signs shall not aggregate more than 2.5 sq. ft./ft. of lot frontage providing access	Wall, iconographic or hanging	Building
b. Building Directory	1	40 sq. ft.	Free standing, wall or hanging.	* Building
c. Directory	Unlimited	-	To be included in a building directory sign.	* Building
d. Identification	2	Total area of both signs shall not aggregate more than 100 sq. ft. in area.	Free standing, hanging; may not be not located in required side or rear yard.	* Building
2. Temporary (Permitted up to twelve (12) months)				
a. Sale or Rent	1	32 sq. ft.	Unlighted	None
b. Construction	1	32 sq. ft.	Unlighted	None
c. Window	Unlimited	Covering no more than 30% of inside display.	Illuminated by building illumination	None
d. Special Event	2	32 sq. ft.	Unlighted	On-Site: None Off-Site: Board of Selectmen
e. Directional	Unlimited	40 sq. ft.	Unlighted	Building
f. Political	Unlimited		Unlighted	None
g. Banners			Unlighted	Building

* Amendment effective May 5, 1985.

3.9.4 Sign Regulation Schedule

3.9.4.3 Signs for residential activities in non-residential zones

SIGN TYPE	NUMBER PERMITTED	MAXIMUM SIZE IN SQ. FT.	LOCATION/OTHER	TYPE OF PERMIT
1. Permanent				
a. Accessory	1 / family	2 sq. ft.	Indicating owner or occupant or pertaining to accessory use.	Building
b. Building Directory				
c. Directory				
d. Identification	1	10 sq. ft.	Identification of permitted use.	Building
2. Temporary (Permitted up to twelve (12) months)				
a. Sale or Rent	1	32 sq. ft.	Unlighted	None
b. Construction	1	32 sq. ft.	Unlighted	None
c. Window	Unlimited	Covering no more than 30% of inside display.	Illuminated by building illumination	None
d. Special Event	2	32 sq. ft.	Unlighted	On-Site: None Off-Site: Board of Selectmen

3.9.4 Sign Regulation Schedule

3.9.4.4 Signs for residential activities in residential zones

SIGN TYPE	NUMBER PERMITTED	MAXIMUM SIZE IN SQ. FT.	LOCATION/OTHER	TYPE OF PERMIT
1. Permanent				
a. Accessory	1 / family	2 sq. ft.	Indicating owner or occupant or pertaining to accessory use.	Building
b. Building Directory				
c. Directory				
d. Identification	1	10 sq. ft.	Identification of permitted use.	Building
2. Temporary (Permitted up to twelve (12) months)				
a. Sale or Rent	1	32 sq. ft.	Unlighted	None
b. Construction	1	32 sq. ft.	Unlighted	None
c. Window	Unlimited	Covering no more than 30% of inside display.	Illuminated by building illumination	None

3.9 Mobile Homes – Trailers – Travel and Camping Trailers – Motor Homes

3.9.1 No trailer or Mobile Home as defined in Section 2 of this bylaw shall be permitted in any district, except as provided below.

A. The Building Inspector may grant a permit for temporary parking of a construction trailer at the site of any approved construction project.

3.9.2 Camping trailers, travel trailers, and motor homes may be regularly stored within a structure and a single camping trailer, travel trailer or motor home may be regularly stored in the open accessory to a permitted use in any district. Such travel or camping trailer shall not be used for living purposes, except when a residence has been destroyed as described in Massachusetts General Law, Chapter 40A, Section 3.

3.9.3 Provisions of this bylaw shall not apply to any trailer park previously approved by the Town.

3.9.4 A trailer or mobile home is defined as any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in connection with a motor vehicle and which is so designed and constructed or added to by means of such accessories as to permit use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations, and shall include the type of vehicle known as a mobile home.

A. A prefabricated building or part thereof, or an existing building that is transported by truck from a factory or site to another site, and which is placed on a permanent foundation with permanent connections to water, sewer or septic, and power, shall not be considered a trailer or mobile home, but shall be considered a dwelling or other type of structure.

B. A travel or camping trailer is defined as a vehicle similar to a trailer or mobile home, but not exceeding 40 feet in length and designed primarily for recreational purposes. The term "Travel" or "Camping Trailer" shall also be applied to any motor vehicle whose body has been equipped for occupancy similar to that of a travel or camping trailer. Said vehicles known as "Motor Homes".

(Amended at the May 1, 2000 Annual Town Meeting. Approved by the Attorney General on September 18, 2000.)

3.10 Flood Plain District Requirements

3.11.1.1 Purpose – The purposes of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

3.11.1.2 District Delineation – 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 floodplains. The Flood Plain District includes all special flood hazard areas designated as Zone a, A1-30 on the Athol Flood Insurance Rate Maps, (FIRM), and the Flood Boundary and Flood-way Maps, dated July 19, 1982, on file with the Selectmen. These maps, as well as the accompanying Athol Flood Insurance Study, are incorporated herein by reference.

3.11.2.1 Permitted Uses – Uses permitted in the underlying district are permitted in the Flood Plain District provided they do not require structures, fill, or storage of materials or equipment.

3.11.2.2 Special Permits-Uses permitted in the underlying district that require structures, fill, or storage of materials or equipment shall be permitted by Special Permit from the Zoning Board of Appeals provided that the use is in harmony with the intent and purpose of this bylaw and, furthermore, that the proposed use complies with the following:

(Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

1. The proposed use shall comply in all respects with the provisions of the underlying District, and
2. Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Inspector, and Zoning Officer. Final action shall not be taken until reports have been received from the above Boards, or until 35 days have elapsed without receipt of such reports, and
3. 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 applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occur of the 100 year flood, and
4. The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.

3.11.2.3 Prohibited Uses-the following uses are prohibited in the Flood Plain District Overlay:

1. Indoor or Outdoor Adult Motion Picture Theatre
2. Outdoor Commercial Recreation

(Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

3.11.2.4 Within Zone A1-30, all mobile homes shall provide that:

a. stands or lots are elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be at or above the base flood level; and

b. adequate surface drainage and access for a hauler are provided; and

c. in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level.

d. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, are prohibited in the floodway.

3.12 <u>Prohibit Uses</u>

The following uses shall be defined as prohibited uses within the Zoning by-laws:

Acetylene gas, cyanide compound or oxygen manufacture
Asphalt manufacture or refining
Chlorine or bleaching powder manufacture
Creosote manufacture
Distillation coal or wood
Explosives, fireworks, or ammunition manufacture
Fertilizer manufacture
Fumigation plants
Glue or size manufacture from fish or animal offal
Gypsum, cement, plaster or plaster of Paris manufacture
Incineration, reduction or dumping of offal, garbage or refuse on a commercial basis (except where controlled by the Town)
Junk yard, junk storage scrapping of autos and parts and the salvage thereof
Linoleum manufacture
Match manufacture
Storage Collection, treatment, burial, incineration or disposal of radioactive wastes, Including but not limited to low level waste

Amendment effective July 9, 1997

3.13 GROUNDWATER PROTECTION DISTRICT BYLAW

1. PURPOSE OF DISTRICT

The purpose of this Groundwater Protection District is:

a. to promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Athol;

b. to preserve and protect existing and potential sources of drinking water supplies;

c. to conserve the natural resources of the Town; and

d. to prevent temporary and permanent contamination of the environment.

2. SCOPE OF AUTHORITY

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

3. DEFINITIONS

For the purposes of this section, the following words and phrases shall have the following meanings:

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

Groundwater Protection District: The zoning district defined to overlay other zoning districts in the Town of Athol. The Groundwater Protection District may include specifically designated recharge areas.

Hazardous Waste: Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010 and/or MGL Chapter 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

Hazardous Material or Waste, Household Quantity of: Any or all of the following:

a. 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and/or

b. 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and/or

c. a quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

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. This shall include non-paved surfaces that are compacted through regular use of automobiles, such as gravel driveways or dirt roads.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores or bedrock.

Publicly Owned Treatment Works (POTW): Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Recharge Areas: Areas that collect precipitation or surface water and carry to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

Toxic or Hazardous Material: Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21E, and 310 CMR 30.00, commercial fertilizers, as defined in MGL Chapter 128, Section 64, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous or toxic materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous or toxic materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

Zone I: The 400-foot protective radius required by the DEP around a public water supply well or wellfield.

Zone II: That area of an aquifer that contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well, and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

Zone III: That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

ESTABLISHMENT AND DELINEATION OF GROUNDWATER PROTECTION DISTRICT

For the purposes of this district, there is hereby established within the Town a Groundwater Protection Area encompassing a one-half mile radius around each groundwater source included in the Towns water system on an interim basis. The boundaries of this district shall be modified upon acceptance of an approved Zone II conformance with Well Head Protection requirements of the Massachusetts Drinking Water Regulations 310 CMR 22.21.

Districts would include the Zone II protection areas as shown on the overlay protection maps for the Town wells as follows:

A. Tully Brook Well Zone II Overlay Protection District Plan No. W-1-1999 dated January 4, 1999
B. South Street Well Zone II Overlay Protection District Plan No. W-2-1999 dated January 4, 1999

These Overlay Districts, as shown on maps available at the Town Clerk's Office and Department of Public Works Office, would preserve and protect existing and potential sources of drinking water supplies and be subject to special proposed Bylaws.
Amended at the May 1, 2000 Special Town Meeting. Approved by the Attorney General on September 12, 2000.

4. DISTRICT BOUNDARY DISPUTES

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a professional engineer or State of Massachusetts registered Land Surveyor to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the owner(s) for all or part of the cost of the investigation.

5. USE REGULATIONS

In the Groundwater Protection District the following regulations shall apply:

A. Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders or approvals required by local, State or Federal law are also obtained and noting that underground storage tanks related to these activities are not categorically permitted.

I conservation of soil, water, plants and wildlife;
II outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
III foot, bicycle and /or horse paths and bridges;
IV normal operation and maintenance of existing water bodies, water control, supply and conservation devices;
V maintenance, repair and enlargement of any existing structure, subject to Section B (prohibited uses) and Section C (special permitted uses);
VI residential development, subject to Section B (prohibited uses) and Section C (special permitted uses);
VII farming, gardening, nursery, conservation, forestry, harvesting and grazing, subject to any applicable waste generation or materials storage requirements in Section B (prohibited uses) and Section C (special permitted uses);
VIII construction, maintenance repair and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts and tunnels, and filtration structures.

B. Prohibited Uses

The following uses are *prohibited:*

I landfills and open dumps as defined in 310CMR 19.006;
II Storage of toxic or hazardous materials, as defined in Section 3 of this bylaw, in quantities greater than household use except where a Special Permit has been granted pursuant to Section C.V
III landfills receiving only wastewater residuals and/or septage monofills;
IV storage of sludge and septage, unless a Special Permit has been granted pursuant to Section C.VI.
V storage of deicing chemicals unless a Special Permit has been granted pursuant to Section C.VII;
VI storage of animal manure unless a Special Permit has been granted pursuant to Section C.VIII;

VII earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within 5 feet of historical high groundwater, except where a Special Permit has been granted pursuant to Section C.IX

VIII facilities that generate, treat store or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.000, except where a Special Permit is granted pursuant to Section C.X

IX automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1;

X treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except those allowed by Special Permit pursuant to Section C.XI.

XII industrial and commercial uses which discharge process wastewater on site;

XIII stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;

XIV Underground storage tanks;

XV 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 liquified petroleum gas.

XVI Boat or motor vehicle service or repair shops, animal feed lots, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;

XVII Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals.

XVIII Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

XIX Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a Special Permit has been granted pursuant to Section C.XII.

C. Uses and Activities Requiring A Special Permit

The following uses and activities are permitted only upon issuance of a Special Permit under such conditions as they may require:

I enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;

II ***Disapproved by the Attorney General on February 13, 2007.***

III the application of fertilizers for non-domestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation;

IV the construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses agricultural uses or drainage improvements. Such activities shall not adversely affect water quality or quantity;

V Storage of toxic or hazardous materials, as defined in Section 3 of this bylaw, where storage is for or incidental to:

(1) waste oil retention facilities required by statute, rule or regulation;
(2) emergency generators required by statute, rule or regulation;
(3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
(4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

(1) above ground level;
(2) on an impervious surface; and

(3) 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 contain a spill of 110% of the total volume of the single largest container.

VI Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31

VII Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate.

VIII Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate. Applicants must meet those standards set by the Natural Resource Conservation Service.

IX Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to Planning Board approval which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United State Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought.

Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

X Facilities that generate and store hazardous waste for off-site disposal, by the following,:

(1) very small quantity generators as defined under 310 CMR 30.00;
(2) household hazardous waste collection centers and events under 310 CMR 30.390;
(3) waste oil retention facilities required by G.L. c. 21, s.52A;
(4) water remediation treatment works approved under 314 CMR 5.00;

XI The following treatment works that are subject to 314 CMR 5.00:

(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) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);
(3) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water.

(4) Publicly Owned Treatment Works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's *Interim Guidelines on Reclaimed Water (Revised)*.

XII Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

(1) For new development in previously undisturbed areas, a system for groundwater recharge shall be provided which does not degrade groundwater quality. Such system shall comply with the treatment standards and guidelines included in the latest version of the Massachusetts Stormwater Management Policy.

(2) For redevelopment of areas previously disturbed, the area of impervious cover shall be decreased by at least 20%. Where site conditions prevent the decrease of impervious area, stormwater management controls shall be provided to treat a minimum of 20% of the site's impervious area that is not treated under existing conditions. Where a combination of new impervious area and stormwater management techniques are used, the combination of the new impervious area and impervious area treated by stormwater management shall be at least 20% of the original impervious area.

6. PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT

A. Under this bylaw, the Zoning Board of Appeals shall be the authority to grant the permit. The permit shall be granted if the ZBA determines, in conjunction with the Board of Health, the Conservation Commission, the Department of Public Works and the Planning Board that the intent of this bylaw, as well as its specific criteria are met. The ZBA shall not grant a special permit under this section unless the petitioner's application materials include, in the ZBA's opinions, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section. The ZBA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.

The applicant shall file nine (9) copies of a site plan and attachments with the ZBA and one (1) copy to each of the following departments or agents: the Town Clerk, the Board of Health, the Conservation Commission, the Department of Public Works the Planning Board, and the Building Department. Upon receipt of proof that the special permit application was received by all required municipal agents, the ZBA shall provide (*amended at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012.)*

B. these agents 35 days to respond in writing. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency.

C. The ZBA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6 of this bylaw and any regulations or guidelines adopted by the ZBA. The proposed use must:

1. in no way, during construction or thereafter, adversely affect the existing or potential quality of water that is available in the Groundwater Protection District, and
2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

D. The ZBA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the municipality.

E. The site plan shall be drawn at a proper scale as determined by the ZBA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall, at a minimum, include the following information where pertinent:

a complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared. The plan shall include:

a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures;

b. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;

c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

proposed down-gradient location(s) for groundwater monitoring well(s), should the ZBA deem the activity a potential groundwater threat.

F. The ZBA shall hold a hearing, in conformity with the provision on MGL Chapter 40A, Section 9, within 65 days after the filing of the application and after the review by the Town Boards, Departments and Commissions.

Notices of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, Section 11. The decision of the ZBA and any extension, modification or renewal thereof shall be filed with the ZBA and Town Clerk within 90 days following the closing of the public hearing. Failure of the ZBA to act within 90 days shall be deemed as granting of the permit. However, no work shall commence until a certificate is recorded as required by said Section 11.

G. Written notice of any violations of this bylaw shall be given by the Building Commissioner 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. A copy of such notice shall be submitted to the Board of Health, Conservation Commission and Department of Public Works – Water Division. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, The Town of Athol, Building Commissioner, the Board of Health or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Athol, the Building Commissioner, the Board of Health or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

7. SEVERABILITY

A determination that any portion 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.

(Amended at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

3.14 Accessory Dwelling Unit Bylaw

3.14.1 Purpose and Intent: The intent of permitting accessory dwelling units is to:

1. Provide older homeowners with a means of obtaining companionship, security, services and/or a secondary source of income, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
3. Provide housing units for persons with disabilities;
4. Protect stability, property values, and the residential character of a neighborhood.

3.14.2 Permit Requirements

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit as an Interior Unit within a single-family dwelling in any residential district (RA RB, RC).

2. An Accessory Dwelling Unit as part of an Attached or Detached building may be allowed in the Residential C district through the granting of a Special Permit and provided the units shall comply with all applicable General Use and Dimensional Requirements in this Bylaw. Such units shall only be eligible to single family homes.

3.14.3 General Use and Dimensional Requirements:

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, single-family dwelling and the Zoning Board of Appeals may issue a Special Permit authorizing the installation and use of an Accessory Dwelling Unit in an Attached or Detached Building on a single-family home lot only when the following conditions are met:

   (a) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
   (b) Only one accessory dwelling unit may be created within a single-family house or house lot.
   (c) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
   (d) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.
   (e) The gross floor area of an accessory dwelling unit (including any additions) shall not be greater than nine hundred (900) square feet.
   (f) Once an accessory dwelling unit has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the nine hundred (900) square feet allowed by this bylaw/ordinance.
   (g) An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two bedrooms.
   (h) The construction of any accessory dwelling unit must be in conformity with the State Building Code, and Title V of the State Sanitary Code and all other applicable local regulations.
   (i) Off-street parking spaces shall be available for use by the owner-occupant(s) and tenants.
   (j) Units shall not have separate mailing addresses associated with them.

2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Zoning Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons. These deviations may be allowed through a Special Permit application.

3. Prior to issuance of a permit, the owner(s) must supply a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences. Approval for an ADU requires that the owner must occupy one of the dwelling units.

4. Prior to issuance of a permit, information and plans equivalent to that which would ordinarily be required by the Building Commissioner shall be submitted.

5. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.

6. The zoning approval and any notarized letters provided as part of the permitting process must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.

3.14.4 Use and Dimensional Requirements Specific to Accessory Dwelling Units that are within Attached or Detached Buildings

1. For existing residential lots and future residential lots approved as a Conventional Subdivision, the dimensional criteria for Accessory Buildings listed in Section 3.2.1 of the Zoning Bylaw shall apply to proposed Attached or Detached Buildings.

2. For existing or future lots approved as part of the OSRD process, Accessory Dwelling Units may only be approved as Interior Units or as part of Attached Buildings. Attached Buildings must conform to the applicable setback requirements listed in Section 3.16.7.3 of the OSRD Bylaw.

3.14.5 Administration and Enforcement

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.

2. No building shall be constructed or changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with applicable bylaws and or regulations. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.

3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this bylaw or in a violation of the conditions or terms of any Special Permit or variance granted by the Zoning Board of Appeals or its agent.

4. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.

5. Construction or use according to a Building Permit or Special Permit shall conform to any subsequent amendment of this bylaw unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

(Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

3.15 <u>FLAG LOTS</u>

PURPOSE AND INTENT: Flag lots are intended to allow limited residential development of deep interior lots that may otherwise be underused. Only one single-family residential dwelling shall be permitted per flag lot. *(Adopted at the May 5, 2008 Annual Town Meeting. Approved by the Attorney General on July 8, 2008.)*

3.15.1 Conditions for Issuance:

The Athol Planning Board may authorize Flag Lots by Special Permit (SP) in residential districts on streets in existence at the date of adoption of this Section (10/16/06), provided that the following conditions are met:

a. That the site is an appropriate location for the proposed use and that the character of adjoining uses will not be adversely affected.
b. The minimum lot area for each dwelling on a Flag Lot shall be five (5) acres.
c. That safe and adequate vehicular access can be provided on said Flag Lot, without easements, from the street frontage to the principal building on the lot.
d. That the width of the Flag Lot measured at the shortest distance between side lot lines is no less than fifty feet (50) at any point between the street and the existing or proposed building on the lot.
e. All front, rear and side yard setbacks shall be double the minimum yard setbacks of the zone in which the lot is located. The Planning Board may waive this requirement if the applicant can demonstrate that the proposed principle structure will not be visible from any of the existing abutting residential structures.
f. That no more than one (1) principal building shall be located on one (1) Flag Lot.
g. That no more than two (2) Flag Lots shall be abutting.
h. Access driveways shall be built according to the following standards:

(1) Width of at least twelve (12) feet, but shall be cleared to a width of at least eighteen (18) feet. The centerline of the driveway shall, to the greatest practicable extent, match the centerline for the overall cleared width, excluding those areas where passing turnouts are provided pursuant to 3.15.1.h.(4).

(2) Maximum grade of ten (10) percent.
(3) Centerline radius of at least eighty (80) feet.
(4) Passing turnouts providing a total width of at least fifteen (15) feet along a distance of at least forty (40) feet spaced with no more than three hundred (300) feet between turnouts and with the first such passing turnout at the driveway connection to the street.
(5) Provision for turnaround space available for use in all seasons capable of serving all vehicles including moving vans, ambulances, fire engines, and police vehicles.
(6) Driveways shall not provide access to any other lot.

3.15.2 Procedure for Special Permits:

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Laws Chapter 40A and Section 1.2.6 of the Athol Zoning Bylaws. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

3.16 Open Space Residential Design (OSRD)

3.16.1. The purpose and intent of this bylaw are the following:

3.16.1.1 To allow for greater flexibility and creativity in the design of residential developments;

3.16.1.2 To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, vistas, and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;

3.16.1.3 To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;

3.16.1.4 To minimize the total amount of disturbance on the site;

3.16.1.5 To further the goals and policies of planning efforts endorsed by the Town of Athol including but not limited to the Open Space and Recreation Plan;

3.16.1.6 To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.

3.16.2 Applicability

3.16.2.1 Any Major Residential Development within the RC District be permitted by issuance of a Special Permit from the Planning Board for either Conventional Development or OSRD in accordance with this bylaw. Applicants for a Major Residential Development shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this Bylaw.

3.16.2.2 Developments of 4 lots or smaller in the RC District may also enter the OSRD permitting process subject to the following criteria:

(1) Contiguous Parcels. To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are "contiguous" for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 3.16.1.

(2) Land Division. To be eligible for consideration as an OSRD, the tract shall be a subdivision or a division of land pursuant to G.L. c. 41, § 81P.

3.16.3 Pre-Application Conference

3.16.3.1 Conference. The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Fire Department, DPW, Building Commissioner, and any other municipal agent who may provide insight into the proposed site development. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts, at the expense of the applicant, to review the informal plans of the applicant and to facilitate submittal of a formal application for a Conventional or OSRD Special Permit.

3.16.3.2 Contents. Applicants choosing to request a pre-submission review should attempt to develop the maps/illustrations listed below. The applicant is strongly encouraged to submit these materials in both hard copy and electronic format where possible. This information need not be prepared by an engineer but should reasonably reflect existing conditions:

(1) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. The map should show land features within 1,000 feet of the site but may be expanded to include important features beyond 1,000 feet such as drainage pathways, transit routes or other resources. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. Attached to the Site Context Map shall be a list of ownership of abutting properties. These documents enable the Planning Board to understand the site in relation to what is occurring on adjacent properties.

(2) Existing Conditions Map. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature non-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map.

(3) The most current available aerial photography or any other Geographic Information System (GIS) data readily available through the Commonwealth of Massachusetts or other sources.

(4) Other Information. In addition, applicants are invited to submit any other available information otherwise required in Preliminary Plan or Definitive Plan submittals.

3.16.3.3 Site Visit. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the Special Permit. If one is requested, the Planning Board shall invite the Conservation Commission, Building Commissioner, Board of Health and other municipal agents that may provide insight into the design process.

3.16.3.4 Design Process. The design process set forth below in Section 3.16.5 should be discussed by the parties at the pre-application conference and site visit.

3.16.4 Major Residential Development/OSRD Application for Special Permit.

The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize a Conventional Development Special Permit or an OSRD Special Permit pursuant to the procedures outlined below.

3.16.4.1 Application. An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board Rules & Regulations of the Town Bylaws. Applicants for OSRD shall also file with the Planning Board six (6) copies of the Concept Plan and shall file one (1) copy with the Town Clerk. The Concept Plan shall include a Yield Plan and a Sketch Plan [see Subsections (1) and (2) of this Section], prepared by a multidisciplinary team of qualified professionals. The applicant shall also submit both the Site Context Map and Existing Conditions Map prepared according to Section 3.16.3.2 above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

(1) Yield Plan. The Basic Maximum Number of allowable units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information:

(a) subdivision name, boundaries, north point, date, and scale;

(b) name and address of record owner, applicant, and designer, engineer, and surveyor;

(c) names of all direct abutters as determined by the Assessors with 4 1/8 x 9 1/2 envelopes that have been addressed to each abutter and affixed with first class postage;

(d) existing and proposed lines of streets, ways, easements, and public areas within the subdivision;

(e) location, direction, names, and present widths of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;

(f) location, names, and present widths of streets bounding, approaching, or near the subdivision;

(g) topography of the land in a general manner, including contours at a scale required by the Board;

(h) proposed system of drainage, including existing natural waterways, in a general manner, but including drainage both within and adjacent to the subdivision;

(i) approximate boundary line of proposed lots, with approximate areas and dimensions;

(j) estimates of the grades of proposed streets, driveways, or profiles, where required by the Board;

(k) major sites features such as existing stonewalls, fences, buildings, large trees and wooded areas, rock ridges and outcroppings, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, other water bodies; farm fields, meadows, archaeological and historic structures or points of interest and habitats of wildlife species listed under the Massachusetts Endangered Species Act;

(l) identification of any land area lying within five hundred (500) feet of any property valued under the provisions of M.G.L. c. 61A, as amended.

(2) Sketch Plan. The Sketch Plan shall address the general features of the land, and give approximate configurations of the proposed lots, of open space, and roadways. The

Sketch Plan shall incorporate the Four-Step Design Process, according to Section 3.16.5 below when determining a proposed design for the development. In addition to those requirements for a Yield Plan listed in Section 3.16.4.1(1), a Sketch Plan shall contain the following information:

(a) The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.

(b) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.

(c) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. A narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer or by a Registered Sanitarian detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title 5 systems, or any combination of these or other methods will be utilized.

(d) A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts on-site and to any abutting parcels of land. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.

(e) A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.

(f) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.

(g) All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.

(h) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.

(i) A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

3.16.4.2 Procedures. Whenever an application for a Conventional/ OSRD Special Permit is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Building Commissioner, Police Chief, Fire Chief, and DPW for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing process to permit the formal submission of reports and recommendations within that thirty-five-day period. The

Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

3.16.4.3 Site Visit. Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing process. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

3.16.4.4 Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a Special Permit for Conventional or OSRD Special Permit with the public hearing required for approval of a definitive subdivision plan.

3.16.5 Design process.

At the time of the application for the Special Permit, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team and was considered in determining the layout of proposed streets, house lots, and designation of all common areas and open space.

3.16.5.1 Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, habitat, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

3.16.5.2 Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

3.16.5.3 Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

3.16.5.4 Lot Lines. Draw in the lot lines.

3.16.6 Open Space within the OSRD

3.16.6.1 A minimum of fifty percent (50%) of the site shall be dedicated open space. The applicant may include a percentage of wetland area in the dedicated open space. The percentage of wetland allowed in the dedicated open space shall not exceed the overall percentage of wetland on the site under existing conditions.

Sample Calculation:
Existing Conditions -
12 acre site (3 acres of wetland) = 25% wetland coverage

Open Space Requirements -
50% Open Space = 6 acres (25% wetland coverage = 1.5 acres)

Open Space can be 4.5 acres of upland and 1.5 acres of wetland

3.16.6.2 Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a permanent Conservation or Agricultural Preservation Restriction in accordance with G.L. c. 184 § 31, approved by the Planning Board and enforceable by

the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant recorded on the property deed, which shall be approved by the Planning Board and enforceable by the Town or its designee.

3.16.6.3 The open space shall be contiguous. Open Space shall be considered contiguous if it is separated by a roadway or an accessory amenity, which may include, but shall not be limited to utility easements, railway tracks, trails, bike paths or any other previously constructed way that does not preclude passage from one natural area to another. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified conservation areas.

3.16.6.4 The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.

3.16.6.5 Wastewater and stormwater management systems serving the OSRD may be located within the open space provided that they are located in areas previously disturbed. Existing established natural areas such as meadows or forested areas, which are proposed to be part of the open space requirement, shall not be used as part of wastewater or stormwater management systems.

3.16.6.6 Ownership of the Open Space. The open space shall, at the Planning Board's election, be conveyed to:

(1) The Town or its Conservation Commission;

(2) 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;

(3) A corporation, homeowners association or trust owned jointly or in common by the owners of lots or units within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

(4) A private owner for agricultural, horticultural or forestry.

3.16.6.7 Maintenance of Open Space. In any case where open space is not conveyed to the Town, the Town or its designee shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall also provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of

such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

3.16.6.8 The Planning Board reserves the right to have any ownership, restrictive covenant or maintenance documentation reviewed by a land use attorney or other Qualified Professional at the applicant's expense before the close of the permitting process.

3.16.7. Reduction of Dimensional Requirements.

Applicants may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

3.16.7.1 Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.

3.16.7.2 Minimum Lot Area. The minimum lot area shall be 10,000 square feet.

3.16.7.3 Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 20 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 0 feet, however the distance between structures shall be a minimum of 20 feet.

3.16.7.4 Principal Buildings. No more than one Principal Building shall be contained on a single lot.

3.16.8 Decision of the Planning Board.

3.16.8.1 Criteria for Approval. The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, § 9. Prior to the close of the public hearing process, the Planning Board shall recommend the development plan (either the Yield Plan showing Conventional Development or the Sketch Plan showing OSRD), that it considers the most beneficial to the Town. Within seven days, the Applicant shall then elect which plan he or she wishes to pursue and communicate this choice in writing to the Board, prior to the close of the public hearing process. The Board may approve such Plan with or without conditions. The Board shall disapprove both plans only if it finds that either the Conventional Development (Yield Plan) or OSRD Development (Sketch Plan) is not a good faith design, or that the Plan that the Applicant elects to pursue does not conform to the requirements of the Bylaw. The Board may grant a Special Permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:

(1) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;

(2) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;

(3) That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;

(4) That the OSRD reduces the total amount of disturbance on the site;

(5) That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Town's Open Space and Recreation Plan;

(6) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;

(7) That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.

(8) That the proposed design does not create undo risk to public health, safety and welfare.

3.16.8.2 Relationship between Concept Plan and Definitive Subdivision Plan. Any Special Permit for a Major Residential Development or any Special Permit for OSRD that is granted and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

(1) An increase in the number of building lots and/or units;

(2) A significant decrease in the open space acreage;

(3) A change in the lot layout or unit placement that results in the loss of or encumbrance upon any resource previously identified in the Four Step Design Process as a conservation area (Section 3.16.5.1);

(4) Significant changes to the stormwater management facilities; and/or

(5) Significant changes in the wastewater management systems.

3.16.8.3 Amendments to an OSRD-Special Permit. Based on the original OSRD Special Permit, any subsequent change in lot area, setback, or an increase of more than 20% of the gross floor area or footprint of any buildings or structures, shall require a public hearing and amendment of the OSRD Special Permit.

3.16.9 Severability.

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

(Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)

3.17 Major Commercial Overlay District (MCOD)

3.17.1 Whereas the Town has identified lands as uniquely suited to large-scale commercial development and whereas the Town has continued to study the role of these lands in the overall economic development scheme for the community, the purpose and intent of this bylaw is to provide incentives for coordinated large-scale multi-unit commercial development within the MCOD through the use of land use and dimensional requirements that are more flexible than those in the underlying zoning districts.

3.17.2 Establishment

1. The MCOD is comprised of those lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts.

2. Within the MCOD, a development may qualify as a MCOD Development and may therefore be subject to the provisions in this By-law if the gross floor area of a proposed building or multiple buildings within the same development exceed 5,000 square feet.

3.17.3 Permit Manager and Permit Authorizing Committee

The Town Manager shall serve as the Permit Manager and will appoint members to the Permit Authorizing Committee which will consist of the Town Manager and one member from each appropriate local permitting authorities: Conservation Commission, Board of Health, Department of Public Works, Fire Department, Building Department, and the Planning Board.

1. The Permit Authorizing Committee shall act on matters within its jurisdiction under Chapter 43D of the General Laws and this By-Law, overseeing the review of proposed projects; the review consisting of advisement, meetings, and a public hearing. The Committee shall provide a decision for proposed projects may include approval, approval with conditions, or denial of the proposed project.

3.17.4 Intensity of Use

More than one principal building per lot shall be permitted in the MCOD subject to any applicable MCOD Site Plan Review provisions in Section 3.17.13 of the Zoning By-law. Unless a development is a MCOD Development, all other provisions for Intensity of Use provided elsewhere in the Zoning By-law shall apply. If a development is a MCOD Development, the use, dimensional, parking and loading and other requirements of this Section 3.17 shall be applicable in lieu of those set forth in Article II and Sections 3.6 and 3.7 of the Zoning By-law.

3.17.5 Use Allowances—New Development

The following uses shall be permitted by right in the MCOD as an MCOD Development provided they qualify for the provisions of this By-law in accordance with Section 3.17.2 (2). A MCOD Development shall also be subject to MCOD Site Plan Review as applicable through Section 3.17.13 of the Zoning By-law. Any development that is not a MCOD Development shall be subject to the "Use Regulations Schedule" set forth in Section 2.3 of the Zoning By-law.

- Non-Adult Bookstores
- Bulk Storage
- Replacement or relocation of an existing Communications Tower
- Day Care Center
- Nursery or Greenhouse (including a garden center as part of a retail store operation)
- Business or Professional Offices
- Motor Vehicles, Boat or Farm Implements
    - Sales or Rentals
    - Light Service
    - General Repairs
- Parking
    - Accessory
    - Business
    - Public
- Restaurant, Indoor
- Retail Business
- Light Industrial
- Recreation
    - Indoor Commercial
    - Private

- Motel or Hotel
- Wholesaling
- Any drive-through facilities customarily associated with the uses listed above

None of the uses listed above shall be constructed with 350 feet of any public way that existed and was then wholly located within the Industrial Commercial District at the time this bylaw was adopted.

3.17.6 Use Allowances—Infill

Where the Site Plan Approval for a MCOD Development includes one or more areas identified as a site of a future building and identifies a building envelope for such new building, construction and use of a building within such building envelope shall be permitted by right in accordance with the conditions below and, if applicable, any requirement of the Site Plan Approval relating to construction in the applicable building envelope:

1. The intended use does not create an increase by the lesser of 10% or 10,000 square feet in the amount of impervious cover included in the stormwater management plan submitted with the approved site plan or, if not included, the intended use does not require significant re-construction, upgrade or expansion of existing stormwater management facilities;
2. The intended use does not require the significant re-construction, upgrade or expansion of any existing on-site wastewater treatment facility;
3. The intended use is allowed under Section 3.17.5;
4. The applicant can demonstrate compliance with the parking requirements in Section 3.17.9 either by use of parking spaces identified for such purposes on the approved Site Plan or through the use of privately owned parking or shared parking accessed through an established easement; and
5. Where the intended use would be connected to the Town's wastewater treatment facility, either the anticipated flows were included in the design of the MCOD Development as reflected in the approved Site Plan or, if not included, the intended use does not create an increase in wastewater design flow where, in the determination of the Department of Public Works, the capacity of the existing treatment facility is in question.

Any proposed construction and use of a building that does not meet any of the requirements of Sections 3.17.7 (1) and 3.17.7 (2) but does meet all of the remaining requirements in Section 3.17.7 shall be allowed subject to further review of such proposed construction or use pursuant to MCOD Site Plan Review as applicable through Section 3.17.13 of the Zoning By-law. Any such proposed building construction or use that does not meet all of the requirements of Sections 3.17.7 (3) through 3.17.7 (5) will disqualify the same for permitting under the MCOD provisions and the provisions within the underlying district shall then apply.

3.17.7 Use Allowances—Re-occupation

Re-occupation of any existing building that was permitted as part of the approved Site Plan for a MCOD Development or permitted under Section 3.17.6 of the MCOD is permitted by right irrespective of the building size, as long as the following conditions are met:

1. The footprint of the building is not increased by more than 5,000 square feet as part of re-occupation;
2. The number of stories in the building does not change;
3. The intended use does not create an increase by the lesser of 10% or 10,000 square feet in the amount of impervious cover included in the storm water management plan submitted with the approved site plan or, if not included, the intended use does not require significant re-construction, upgrade or expansion of existing storm water management facilities;
4. The intended use does not require significant re-construction, upgrade or expansion of any existing on-site wastewater treatment facility;
5. The intended use is permitted in the MCOD pursuant to Section 3.17.5;

6. The applicant can demonstrate compliance with the parking requirements in Section 3.17.9 either by use of parking spaces identified for such purposes on the approved Site Plan or through the use of privately owned parking or shared parking accessed through an established easement;
7. The building as so modified meets the requirements of the Building Code, as the same may be varied by any authority having jurisdiction; and
8. Where the intended use would be connected to the Town's wastewater treatment facility, either the anticipated flows were included in the design of the MCOD Development as reflected in the approved Site Plan or, if not included, the intended use does not create an increase in wastewater design flow where, in the determination of the Department of Public Works, the capacity of the existing treatment facility is in question.

Any proposed re-occupation that does not meet any of the requirements of Sections 3.17.7 (1) through 3.17.7 (4) but does meet all of the remaining requirements in Section 3.17.7 shall be allowed pursuant to the requirements for MCOD Site Plan Review. Any proposed re-occupation that does not meet the requirements of Sections 3.17.7 (5) through 3.17.7 (8) will disqualify the same for permitting under the MCOD provisions and the provisions within the underlying district shall then apply.

3.17.8 Dimensional Provisions

1. Lot, Yard and Building Coverage Requirements. In the case of a MCOD Development where there is more than one principal structure on a lot or where multiple lots are subject to an agreement that provides for cross-parking and access among the lots the following shall apply:

    a. The minimum lot requirements for width, frontage and depth specified in Section 2.6 shall be applied to the perimeter of the proposed MCOD Development as if it were a single lot and not to the individual lots which comprise the same;
    b. The minimum side, front, and rear yard requirements specified in Section 2.6 shall be applied to the proposed MCOD Development as if it were a single lot and not to the individual lots which comprise the same;
    c. The maximum building coverage shall be determined by considering the aggregate building area as compared to the aggregate MCOD Development area without regard for individual lots;
    d. Those individual lots within the overall MCOD Development shall have a minimum frontage of no less than twenty (20) feet.

2. Building Height. Building height within the MCOD may be a maximum of eighty (80) feet. Increases to building height beyond forty-five (45) feet are only allowed for buildings that will be constructed more than two hundred and fifty (250) feet from any established public way in the Industrial Commercial District that existed at the time this bylaw was adopted except for Route 2 and any access or exit ramps associated with Route 2.

3. Floor Area Ratio. For any MCOD Development, the ratio of ground floor area of any building to the lot area on which such building is situated shall be 2 to 1. Where more than one principal building is proposed for a single lot, the area of all buildings shall apply to the FAR calculation.

3.17.9 Parking. For those uses allowed pursuant to Sections 3.17.5 through 3.17.7, parking spaces shall be provided at a rate of no fewer than 3.5 spaces per 1,000 square feet of building floor area. In a MCOD Development, parking shall not be required to be maintained upon the same lot nor within 500 feet of the building which it is intended to serve. Parking spaces perpendicular to the travel lane shall have dimensions of nine (9) feet in width and eighteen (18) feet in length unless other dimensions are required to accommodate parking for people with disabilities or to construct functional angled parking.

3.17.10 Loading. Within a MCOD Development, loading bays shall be required at the rate of one bay for each 25,000 square feet of building floor area or a portion thereof. This requirement may be

waived by the Permit Authorizing Committee for buildings that typically do not require loading bays.

3.17.11 Signs. In lieu of the requirements of Section 3.9 of the Zoning By-law, signs for a MCOD Development shall comply with the following standards:

1. Principal signs are those located at the main entrance of a building and shall not exceed 10% of the area of the wall to which they are affixed. The area of the sign shall be calculated inclusive of any lettering or logos.
2. Signs affixed to a building in a parallel manner shall not extend more than twelve (12) inches from the wall to which they are affixed. Signs affixed to a building in a perpendicular manner shall not extend above the height of the building.
3. Secondary signs are allowed for side entrances designed for customer use in retail establishments and for walls that are clearly visible from Route 2. These signs shall not occupy more than 10% of the wall area to which they are affixed.
4. Free-standing signs shall be permitted to be maintained at the vehicular entrances to a MCOD Development, shall not exceed 60 feet in height and the sign area thereof, for all signs placed thereon, shall not exceed 280 square feet. In addition, business establishments containing more than 50,000 square feet of ground floor area may maintain a free-standing sign on the portion of a MCOD Development adjacent to Route 2, provided the height of such ground sign shall not exceed 35 feet, and the sign area of the signs placed thereon shall not exceed 125 square feet.
5. Directional signs within parking areas shall be permitted.
6. Lighting for signs shall be provided by steady illumination internal to the advertising matter, by steady backlighting, or by lighting exterior to the advertising matter by white steady stationary light shielded and directed solely at the sign. Signs illuminated internally or by backlighting shall be illuminated, situated or screened so as to avoid causing glare into neighboring residential premises that existed at the time this By-Law was adopted.

Signs for a MCOD Development that do not comply in all respects with the standards set forth above in this Section 3.17.11 shall require and be subject to the issuance of a signage special permit by the Permit Authorizing Committee. In granting a signage special permit, the Permit Authorizing Committee shall find that the location, nature and use of the premises are such that the proposed sign or signs may be permitted in harmony with the general purpose and intent of this Section. In granting any such permit the Board shall specify the size, height, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

3.17.12 Earth Removal for a MCOD Development. Within a MCOD Development, grading activities undertaken pursuant to an approved Site Plan shall not be considered to be earth removal.

3.17.13 MCOD Site Plan Review

1. Purpose. The MCOD Site Plan Review process shall provide the Permit Authorizing Committee and other agents of the Town the opportunity to review plans for development in a coordinated fashion. This review process will help to ensure that the health, safety and welfare of all residents are protected and that the environment, community character and local economy are not impacted in a detrimental manner.

2. Applicability. The following types of activities and uses require MCOD Site Plan Review by the Permit Authorizing Committee:

    a. Minor Site Plan. An application for permits to build, alter or expand any non-residential building, structure, parking lot or use in the MCOD where such construction will not exceed a total gross area of 20,000 square feet.
    b. Major Site Plan. An application for permits to build, alter or expand any non-residential building, structure, parking lot or use in the MCOD district where such construction will exceed a total gross area of 20,000 square feet.

3. Exemptions from MCOD Site Plan Review.

a. Construction of less than 5,000 gross square feet.
b. Any building or structure wholly or partially destroyed may be reconstructed without MCOD Site Plan Review if it is reconstructed without change to the building footprint or the square footage of usable space and complies fully with 3.1.2 of the By-law where applicable.

4. Relationship to Other Permits

a. Building Permit. Where applicable, no building permit or certificate of occupancy shall be issued without a Site Plan approved by the Permit Authorizing Committee or documented proof that no decision was filed by the Permit Authorizing Committee within the timeframe provided for review in this bylaw.

b. Special Permit or Variance

1. Where applicable, an application to the Zoning Board of Appeals for a Special Permit or Variance shall be accompanied by a Site Plan approved by the Permit Authorizing Committee or documented proof that no decision was filed by the Permit Authorizing Committee within the timeframe provided for review in this bylaw;
2. Where a Site Plan has received conditional approval from the Permit Authorizing Committee, the Zoning Board of Appeals shall incorporate those conditions into their decision unless said conditions would result in non-compliance with more stringent Special Permit approval criteria;
3. Where the Permit Authorizing Committee is the Special Permit Granting Authority, the Special Permit and MCOD Site Plan Review processes shall be consolidated;
4. Site Plan approval does not ensure approval of any other required local permits including, but not limited to, Special Permits, Notices of Intent, Board of Health submittals, or occupancy permits from the Building Inspector.

5. Pre-Application Meeting. Any applicant for a Minor or Major MCOD Site Plan Review is encouraged to present general sketches of the proposal to the Permit Authorizing Committee in an informal capacity and schedule a comment period with the Permit Authorizing Committee before the filing of an official application. Information presented at a pre-application meeting need not be prepared by a design professional.

6. MCOD Site Plan Review—Application Procedures

(A) General:

(1) The applicant shall submit 10 copies of the site plan to the Permit Manager.

(B) Minor MCOD Site Plan Review:

(1) Prior to the submission of a Minor Site Plan, the Permit Authorizing Committee may waive strict compliance with the plan requirements listed in Section 3.17.13 (8) Application Requirements (Narrative) and Section 3.17.13 (9) Application Requirements (Site Plan). Applicants must petition the Permit Authorizing Committee for any such waivers in writing. The Permit Authorizing Committee shall decide by majority vote within fifteen (15) days of the request and file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.

(C) Major MCOD Site Plan Review

(1) Prior to the submission of a Major Site Plan, the Permit Authorizing Committee may waive strict compliance with the plan requirements listed in Section 3.17.13

(8) Application Requirements (Narrative) and Section 3.17.13 (9) Application Requirements (Site Plan). Applicants must petition the Permit Authorizing Committee for any such waivers in writing. The Permit Authorizing Committee shall decide by majority vote within fifteen (15) days of the request and file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.

(2) An applicant may only request waivers for submittal requirements if:

(a) the proposal is for occupation of a previously developed site where existing utilities or infrastructure will, with minimal alteration, adequately serve the proposed use and make this information unnecessary; or
(b) where the Permit Authorizing Committee determines that a later subdivision submittal shall provide an adequate level of review.

(3) The Permit Authorizing Committee shall hold a public hearing within forty-five (45) days after receiving an application for Major MCOD Site Plan Review. Notice of this public hearing shall be given in accordance with M.G.L. Chapter 40A, Section 11. It shall be the normal practice of the Board to allow time for review of plans by other Boards and agencies prior to the public hearing.

(4) Upon written petition from an applicant, and by a majority vote, the Permit Authorizing Committee may choose to extend the hearing up to one hundred thirty-five (135) days.

7. MCOD Site Plan Review —Permit Authorizing Committee actions
Permit Authorizing Committee actions for Minor Site Plan and Major MCOD Site Plan Reviews are as follows:

	MCOD Site Plan Review	
	Minor	Major
Permit Authorizing Committee action		
The Permit Authorizing Committee shall review and act upon the site plan within thirty-five (35) days of receiving a full and complete site plan application. Unless the Applicant and Permit Authorizing Committee mutually agree in writing to an extension of this timeframe, failure to act within this 35-day timeframe shall constitute an approval. The decision of the Permit Authorizing Committee shall be upon a majority vote and shall be in writing. Approval shall be informed by the criteria identified in Section 3.17.12.10 MCOD Site Plan Review Criteria. The Permit Authorizing Committee shall file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.	Y	NA
The Permit Authorizing Committee shall review and act upon the site plan, with such conditions as may be deemed appropriate, within forty-five (45) days of the public hearing, and notify the applicant of its decision. Unless the Applicant and Permit Authorizing Committee mutually agree in writing to an extension of this time frame, failure to act within this timeframe shall constitute an approval. Approval shall be informed by the criteria identified in Section 3.17.12.10, MCOD Site Plan Review Criteria. The decision of the Permit Authorizing Committee shall be upon a majority vote and shall be in writing. The Permit Authorizing Committee shall file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.	NA	Y
The Permit Authorizing Committee may deny an application if there is	Y	Y

insufficient information provided in accordance with 3.17.12.8 Application Requirements (Narrative) and Section 3.17.12.9 Application Requirements (Site Plan) or if it finds that there are any inconsistencies between site plans submitted to different agencies.		

8. MCOD Site Plan Review—Application Requirements (Narrative)

Narrative requirements for Minor Site Plan and Major Site Plan applications are as follows:

	MCOD Site Plan Review	
	Minor	Major
Application Requirements—Narrative		
(1) Name and address of the property owner and the applicant, if different from the property owner, evidence of site control such as a deed, purchase and sales agreement, or lease	Y	Y
(2) Zoning classification(s) that apply to the property	Y	Y
(3) Assessor's map and lot numbers	Y	Y
(4) Proposed building or addition dimensions with a breakdown of proposed use(s);	Y	Y
(5) Comparison of building dimensions and setbacks with applicable Zoning Bylaw requirements	Y	Y
(6) Projected parking spaces required for the development, based on Zoning Bylaw requirements	Y	Y
(7) Description and summary of all wastewater calculations performed for the intended use(s)	N	Y
(8) Description and summary of all stormwater calculations and treatment efficiencies performed for the intended use(s)	N	Y
(9) Analysis of traffic impacts providing estimated average daily traffic and peak hour traffic to be generated by the development. A traffic impact plan shall be required indicating impacts, if any, to surrounding intersections servicing the project site if the proposed development generates more than 250 vehicle trips per day or more than 50 trips at the peak hour according to these estimates or as determined by the most current edition of the Trip Generation Manual published by the Institute of Traffic Engineers (ITE). The Permit Authorizing Committee may, at its discretion, require the Applicant to prepare a traffic study and/or pay for consultants review	N	Y

9. MCOD Site Plan Review—Application Requirements (Site Plan)

Site Plan requirements for Minor Site Plan and Major Site Plan applications are as follows:

	MCOD Site Plan Review	
	Minor	Major
Application Requirements—Site Plan		
(1) A title block showing the name of the site, the date, scale, name(s) of the owner(s) and the signature and seal of the registered professional engineer, architect and/or landscape architect	Y	Y
(2) North arrow and the location of at least two permanent benchmarks used for survey purposes.	Y	Y
(3) A locus plan at a scale appropriate to show the site relative to surrounding buildings and roads	Y	Y[1]
(4) Parcel lot lines for the proposed project and surrounding parcels using information readily available from the Assessor's Office where applicable	Y	
(5) Location, height, and size of all proposed signage	Y	Y
(6) A table of information showing how the plan conforms to the Zoning Bylaw	Y	Y
(7) Location, footprint, height and use of all existing and proposed buildings or structures, including boundaries, walkways, service areas, parking spaces, loading areas, fences and screening	Y	Y
(8) Location of all public and/or private ways and driveways to be developed as part of the site	Y	Y
(9) Proposed location and design of on-site drainage systems with drainage calculations prepared by a registered professional engineer	Y	N
(10) Proposed storm drainage of land, including existing natural waterways and the proposed disposition of water from the proposed subdivision to either adequate natural drainage channels or artificial means of disposal thereof. Four copies of a runoff plan and calculations using the rational formula (as described in Seelye's Design Data Book for Civil Engineers, latest edition) or other methodology as may be approved by the Permit Authorizing Committee, based on a ten (10) year storm frequency, to determine necessary pipe sizes which can be no less than twelve (12) inches in diameter. Culverts beneath roadways crossing brooks with a drainage area in excess of ten (10) acres shall be based on a twenty-five (25) year storm frequency. Pipe size, capacity, depth of flow and velocity of flow shall be included	N	Y
(11) The location and description of all proposed septic systems, connections to municipal sewage treatment pipes, water supply infrastructure, utilities, and refuse and other disposal methods, noting applicable approvals, if received	Y	Y
(12) Existing and proposed topographical contours of the property, taken at a minimum contour interval of two feet by a registered professional engineer or registered land surveyor	Y	N
(13) General location of any unique natural features, including trees located in the right of way, mature forest stands and bedrock outcrops	Y	Y
(14) The location of on-site wetlands and other areas subject to control under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40, including regulatory buffer zones or setbacks from resource areas. On-site resources shall be flagged and surveyed by qualified professionals.	Y	Y
(15) Location of all water resource protection areas, if any portion of the site is within a DEP Zone II, interim wellhead protection area or any surface water protection zone	Y	Y
(16) Location of any on-site Areas of Critical Environmental Concern (ACEC) designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs	Y	Y
(17) Location of any on-site lands under the jurisdiction of the Natural Heritage and Endangered Species Program	Y	Y[2]

[1] For Major Site Plan, locus map shall be at a scale of one (1) inch equals one thousand (1,000) feet showing the site in relation to existing streets in the immediate vicinity.
[2] For Major Site Plan, location of the site in relation to any lands under the jurisdiction of the Natural Heritage and Endangered Species Program.

(18) Lighting plan demonstrating that on-site lighting will not provide glare to adjacent properties	Y	Y[3]
	MCOD Site Plan Review	
	Minor	Major
Application Requirements—Site Plan (continued from prior page)		
(19) General location and size of landscaping beds and proposed tree plantings	Y	Y[4]
(20) Existing and proposed lot lines for all Parties In Interest	N	Y
(21) For proposed Public Streets, profiles on the centerlines and sidelines at a horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or such other scale acceptable to the Board. Profiles shall show elevation of sills of all existing structures. Present and proposed elevations must be shown at least every 50 feet and must refer to the town base, mean sea level, if bench available within two thousand (2,000) feet of the site. Profile plans of roadways and appurtenances shall be derived from "on the ground" topography. Profile plans shall show cross-sections together with locations of proposed underground utilities including sanitary and storm sewer lines, water lines and their appurtenances, along with details of all structures, headwall, and retaining walls	N	Y
(22) Location of existing and proposed monuments, hydrants, public utility facilities, water pipes, sewer pipes, fire ponds and cisterns, and public water supply wells within the proposed development	N	Y
(23) Location and purpose of all existing and proposed easements	N	Y
(24) Existing and proposed topography with two (2) foot contours based on mean sea level datum. All buildings and physical features of abutting property that are within one hundred (100) feet of the boundary must be shown	N	Y
(25) Suitable space to record the action and signatures of the Board members on the cover sheet of the Site Plan	N	Y
(26) A soils plan showing the SCS interpretation of suitability for on-site sewage disposal, or showing USGS surficial geology, or both. Board of Health sanctioned testing required under Title 5 (310 CMR 15.00) may be substituted for this overlay showing the results of test pit investigations	N	Y
(27) An Erosion and Dust Control Plan, indicating the erosion and dust control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, sediment basins, etc., and narrative description of how dust is to be controlled and how erosion from the site onto streets and into drainage systems is proposed to be controlled	N	Y
(28) Circulation Plan showing proposed vehicular, bicycle and pedestrian circulation routes, and areas reserved for snow stockpiling	N	Y
(29) Schematic building elevation plans showing the facades, heights, rooflines, windows and other building features that will be visible from the exterior	N	Y

[3] For Major Site Plan, lighting plan showing the height, materials, strength and coverage of on-site lighting demonstrating that lighting will not provide unnecessary glare to adjacent properties and streets.

[4] For Major Site Plan, landscaping plan showing location and species of all plantings, names of plantings and/or individual trees or wooded areas to be retained within forty (40) feet of the sidelines of each street, and dimensions and plantings associated with any property line buffers

10. MCOD Site Plan Review Criteria. The Permit Authorizing Committee shall consider the following matters during MCOD Site Plan Review and shall approve a site plan upon its determination that, taking into consideration the type and location of the development and the land use(s) involved, such matters have been satisfactorily addressed:
    a. Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light, and air;
    b. Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets;
    c. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;
    d. Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;
    e. Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the Zoning By-Law; and,
    f. Mitigation of adverse impacts on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection, and streets.

11. Performance Guarantee

As a condition of MCOD Site Plan Review approval:

a. The Permit Authorizing Committee may require that a performance bond, secured by deposit of money or negotiable securities in the form selected by the Permit Authorizing Committee, be posted with the Town to guarantee completion of construction of public infrastructure improvements, to the extent that such improvements are to be funded by the applicant, rather than by the Town, either directly or through grant or other sources of funding, or by third parties, such as but not limited to utility companies.

b. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all such construction of public infrastructure improvements in a manner satisfactory to the Permit Authorizing Committee within three (3) years from the date of approval, or the final date of the last extension of such approval, if any.

12. Appeals. Applicants for a MCOD Site Plan Review may appeal conditions imposed by the Permit Authorizing Committee to the Zoning Board of Appeals.

13. As-Built Plan**.** Upon completion of all work for a Major Site Plan, an As-Built plan and a letter of certification shall be submitted to Building Inspector by a registered professional engineer, registered architect, registered landscape architect or registered land surveyor, as appropriate to the work involved, that all work has been done substantially in compliance with the approved Site Plan.

14. Duration of Approval. MCOD Site Plan Review shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. In such case a request for extension of the date of completion must be submitted to the Permit Authorizing Committee.

15. Outside Consultants. The Permit Authorizing Committee may enlist the services of outside consultants including, but not limited to, engineers, attorneys, real estate professionals, and environmental scientists to review Site Plan submittals at the expense of the applicant.

3.17.14 Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby (*Amended at the October 19, 2009 Fall Town Meeting. Approved by the Attorney General on February 18, 2010.)*

3.18 Site Plan Review

3.18.1 Purpose. The Site Plan Review process shall provide the Planning Board and other agents of the Town the opportunity to review plans for development in a coordinated fashion. This review process will help to ensure that the health, safety and welfare of all residents are protected and that the environment, community character and local economy are not impacted in a detrimental manner.

3.18.2 Applicability. The following types of activities and uses require Site Plan Review by the Planning Board:

3.18.2.1 Minor Site Plan. An application for permits to build, alter or expand any non-residential building, structure, parking lot or use in any district where such construction will not exceed a total gross area of 20,000 square feet.

3.18.2.2 Major Site Plan. An application for permits to build, alter or expand any non-residential building, structure, parking lot or use in any district where such construction will exceed a total gross area of 20,000 square feet.

3.18.3 Exemptions from Site Plan Review.

3.18.3.1 Construction of less than 5,000 gross square feet.

3.18.3.2 Agricultural buildings or structures.

3.18.3.3 Any building or structure wholly or partially destroyed may be reconstructed without Site Plan Review if it is reconstructed without change to the building footprint or the square footage of usable space and complies fully with 3.1.2 of the By-law where applicable.

3.18.3.4 Lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts.

3.18.4 Relationship to Other Permits

3.18.4.1 Building Permit. Where applicable, no building permit or certificate of occupancy shall be issued without a Site Plan approved by the Planning Board or documented proof that no decision was filed by the Planning Board within the timeframe provided for review in this bylaw.

3.18.4.2 Special Permit or Variance

(1) Where applicable, an application to the Zoning Board of Appeals for a Special Permit or Variance shall be accompanied by a Site Plan approved by the Planning Board or documented proof that no decision was filed by the Planning Board within the timeframe provided for review in this bylaw;

(2) Where a Site Plan has received conditional approval from the Planning Board, the Zoning Board of Appeals shall incorporate those conditions into their decision unless said conditions would result in non-compliance with more stringent Special Permit approval criteria;

(3) Where the Planning Board is the Special Permit Granting Authority, the Special Permit and Site Plan Review processes shall be consolidated;

(4) Site Plan approval does not ensure approval of any other required local permits including, but not limited to, Special Permits, Notices of Intent, Board of Health submittals, or occupancy permits from the Building Inspector.

3.18.5 Pre-Application Meeting. Any applicant for a Minor or Major Site Plan Review is encouraged to present general sketches of the proposal to the Planning Board in an informal capacity and schedule a comment period at a regularly scheduled hearing of the Planning Board before the filing of an official application. Information presented at a pre-application meeting need not be prepared by a design professional.

3.18.6 Minor Site Plan Review

3.18.6.1 Application Procedure

(1) Prior to the submission of a Minor Site Plan, the Planning Board may waive strict compliance with the plan requirements listed in Sections 3.18.6.3 and 3.18.6.4. Applicants must petition the Planning Board for any such waivers in writing at a regularly scheduled meeting. The Planning Board shall decide by majority vote within fifteen (15) days of the request and file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.

(2) Applicants for Minor Site Plan Approval shall submit a copy of the Site Plan and narrative as defined in sections 3.18.6.3 and 3.18.6.4, to the Town Clerk. Applicants shall also submit a copy of the Site Plan and narrative as defined in 3.18.6.3 and 3.18.6.4 to the Conservation Commission, Zoning Board of Appeals, Board of Health, Historical Commission, Department of Public Works, Fire Chief, Building Inspector and Police Chief for their advisory review and comments. *(Amended at the June 13, 2011 Annual Town Meeting. Approved by the Attorney General on September 26, 2011.)*

(3) The applicant shall submit proof of receipt from all of the departments listed above along with six (6) copies of the application to the Town Clerk for delivery to the Planning Board. (*Amended at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012.)*

(4) Agents other than the Planning Board shall have fifteen (15) days to submit written comment to the Planning Board from the day they received the Site Plan and Narrative. Failure to respond within this timeframe shall be construed as lack of opposition to the Site Plan as submitted.

3.18.6.2 Planning Board Action.

(1) The Planning Board shall review and act upon the site plan within thirty-five (35) days of receiving a full and complete site plan application. Failure to act within this timeframe shall constitute an approval. The decision of the Planning Board shall be upon a majority vote and shall be in writing. Approval of the application shall be informed by those criteria listed in Section 3.18.8. The Planning Board shall file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.

(2) The Planning Board may deny an application if there is insufficient information provided in accordance with 3.18.6.3 and 3.18.6.4 or if it finds that there are any inconsistencies between site plans submitted to different agencies.

3.18.6.3 Application Requirements—Narrative

(1) Name and address of the property owner and the applicant, if different from the property owner, evidence of site control such as a deed, purchase and sales agreement, or lease;

(2) Zoning classification(s) that apply to the property;

(3) Assessor's map and lot numbers;

(4) Proposed building or addition dimensions with a breakdown of proposed use(s);

(5) Comparison of building dimensions and setbacks with applicable Zoning Bylaw requirements;

(6) Projected parking spaces required for the development, based on Zoning Bylaw requirements;

3.18.6.4 Application Requirements—Site Plan

(1) A title block showing the name of the site, the date, scale, name(s) of the owner(s) and the signature and seal of the registered professional engineer, architect and/or landscape architect;

(2) North arrow;
(3) A locus plan at a scale appropriate to show the site relative to surrounding buildings and roads;
(4) Parcel lot lines for the proposed project and surrounding parcels using information readily available from the Assessor's Office where applicable;
(5) Location, height, and size of all proposed signage;
(6) A table of information showing how the plan conforms to the Zoning Bylaw;
(7) Location, footprint, height and use of all existing and proposed buildings or structures, including boundaries, walkways, service areas, parking spaces, loading areas, fences and screening;
(8) Location of all public and/or private ways and driveways to be developed as part of the site;
(9) Proposed location and design of on-site drainage systems with drainage calculations prepared by a registered professional engineer;
(10) The location and description of all proposed septic systems, water supply infrastructure, utilities, and refuse and other disposal methods, noting applicable approvals, if received;
(11) Existing and proposed topographical contours of the property, taken at a minimum contour interval of two feet by a registered professional engineer or registered land surveyor;
(12) General location of any unique natural features including trees located in the right of way, mature forest stands and bedrock outcrops;
(13) The location of on-site wetlands and other areas subject to control under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40 including regulatory buffer zones or setbacks from resource areas;
(14) Location of all water resource protection areas, if any portion of the site is within a DEP Zone II, interim wellhead protection area or any surface water protection zone;
(15) Location of any on-site Areas of Critical Environmental Concern (ACEC) designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs;
(16) Location of any on-site lands under the jurisdiction of the Natural Heritage and Endangered Species Program;
(17) Lighting plan demonstrating that on-site lighting will not provide glare to adjacent properties;
(18) General location and size of landscaping beds and proposed tree plantings.

3.18.7 Major Site Plan Review

3.18.7.1 Application Procedure

(1) Prior to the submission of a Major Site Plan, the Planning Board may waive strict compliance with the plan requirements listed in Sections 3.18.7.3 and 3.18.7.4. Applicants must petition the Planning Board for any such waivers in writing upon submittal of the full and complete application. The Planning Board shall decide by majority vote within fifteen (15) days of the opening of the public hearing and file its decision on the waiver request(s) with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.
(2) For a Major Site Plan Review application, an applicant may only request waivers for submittal requirements if:

(a) the proposal is for occupation of a previously developed site where existing utilities or infrastructure will, with minimal alteration, adequately serve the proposed use and make this information unnecessary; or
(b) where the Planning Board determines that a later subdivision submittal shall provide an adequate level of review and that said information does not require the review of those agencies specified in Section 3.18.7.1(3).

(3) Applicants for Major Site Plan Approval shall submit a copy of the Site Plan and narrative as defined in sections 3.18.7.3 and 3.18.7.4 to the Town Clerk. Applicants shall also submit a copy of the Site Plan and narrative as defined in sections 3.18.7.3 and 3.18.7.4 to the Conservation Commission, Zoning Board of Appeals, Board of Health, Historical Commission, Department of Public Works, Fire Chief, Building Inspector and Police Chief for their advisory review and comments. *(Amended at the June 13, 2011 Annual Town Meeting. Approved by the Attorney General on September 26, 2011 and at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012.)*

(4) The applicant shall submit proof of receipt from the all of departments listed above along with six (6) copies of the application to the Town Clerk for delivery to the Planning Board. (*Amended at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012.)*

(5) Agents other than the Planning Board shall have thirty (30) days to submit written comment to the Planning Board from the day they received the Site Plan and Narrative. Failure to respond within this timeframe shall be construed as lack of opposition to the Site Plan as submitted.

(6) The Planning Board shall hold a public hearing within forty-five (45) days after receiving an application for Major Site Plan Review. Notice of this public hearing shall be given in accordance with M.G.L. Chapter 40A, Section 11. It shall be the normal practice of the Board to allow time for review of plans by other Boards and agencies prior to the public hearing.

(7) Upon written petition from an applicant, and by a majority vote, the Planning Board may choose to extend the hearing up to one hundred thirty-five (135) days.

3.18.7.2 Planning Board Action.

(1) The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within forty-five (45) days of the public hearing, and notify the applicant of its decision. Failure to act within this timeframe shall constitute an approval. Approval of the application shall be informed by those criteria listed in Section 3.18.8. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. The Planning Board shall file its decision with the Town Clerk and shall send notice of such action by registered or certified mail, postage prepaid, to the applicant.

(2) The Planning Board may deny an application if there is insufficient information provided in accordance with 3.18.7.3 and 3.18.7.4 or if it finds that there are any inconsistencies between site plans submitted to different agencies.

3.18.7.3 Application Requirements—Narrative

(1) All narrative information required for a Minor Site Plan Review;

(2) Description and summary of all wastewater calculations performed for the intended use(s);

(3) Description and summary of all stormwater calculations and treatment efficiencies performed for the intended use(s);

(4) Analysis of traffic impacts providing estimated average daily traffic and peak hour traffic to be generated by the development. A traffic impact plan shall be required indicating impacts, if any, to surrounding intersections servicing the project site if the proposed development generates more than 250 vehicle trips per day or more than 50 trips at the peak hour according to these estimates or as determined by the most current edition of the Trip Generation Manual published by the Institute of Traffic Engineers (ITE). The Planning Board may, at its discretion, require the Applicant to prepare a traffic study and/or pay for consultants review;

3.18.7.4 Application Requirements—Site Plan

(1) A title block showing the name of the site, the date, scale, name(s) of the owner(s) and the signature and seal of the registered professional engineer, architect and/or landscape architect;
(2) North arrow and the location of at least two permanent benchmarks used for survey purposes;
(3) A locus map at a scale of one (1) inch equals one thousand (1,000) feet showing the site in relation to existing streets in the immediate vicinity.
(4) General location of any unique natural features including trees located in the right of way, mature forest stands and bedrock outcrops;
(5) The location of on-site wetlands and other areas subject to control under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40 including regulatory buffer zones or setbacks from resource areas. On-site resources shall be flagged and surveyed by qualified professionals.
(6) Location of all water resource protection areas, if any portion of the site is within a DEP Zone II, interim wellhead protection area or any surface water protection zone.
(7) Location of the site in relation to any Areas of Critical Environmental Concern (ACEC) designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs.
(8) Location of the site in relation to any lands under the jurisdiction of the Natural Heritage and Endangered Species Program.
(9) Existing and proposed lot lines for all Parties In Interest;
(10) Location, height, and size of all proposed signage.
(11) Location, footprint, height and use of all existing and proposed buildings or structures, including boundaries, walkways, service areas, parking spaces, loading areas, fences and screening.
(12) Location of all public and/or private ways and driveways to be developed as part of the site;
(13) A table of information showing how the plan conforms to the Zoning Bylaw.
(14) For proposed Public Streets, profiles on the centerlines and sidelines at a horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or such other scale acceptable to the Board. Profiles shall show elevation of sills of all existing structures. Present and proposed elevations must be shown at least every 50 feet and must refer to the town base, mean sea level, if bench available within two thousand (2,000) feet of the site. Profile plans of roadways and appurtenances shall be derived from "on the ground" topography. Profile plans shall show cross-sections together with locations of proposed underground utilities including sanitary and storm sewer lines, water lines and their appurtenances, along with details of all structures, headwall, and retaining walls;
(15) Location of existing and proposed monuments, hydrants, public utility facilities, water pipes, sewer pipes, fire ponds and cisterns, and public water supply wells within the proposed development;
(16) Proposed storm drainage of land, including existing natural waterways and the proposed disposition of water from the proposed subdivision to either adequate natural drainage channels or artificial means of disposal thereof. Four copies of a runoff plan and calculations using the rational formula (as described in Seelye's Design Data Book for Civil Engineers, latest edition) or other methodology as may be approved by the Planning Board, based on a ten (10) year storm frequency, to determine necessary pipe sizes which can be no less than twelve (12) inches in diameter. Culverts beneath roadways crossing brooks with a drainage area in excess of ten (10) acres shall be based on a twenty-five (25) year storm frequency. Pipe size, capacity, depth of flow and velocity of flow shall be included;
(17) Location and purpose of all existing and proposed easements;

(18) The location and details for all proposed septic systems, connections to municipal sewage treatment pipes, water supply infrastructure, utilities, and refuse and other disposal methods, noting applicable approvals, if received;

(19) Existing and proposed topography with two (2) foot contours based on mean sea level datum. All buildings and physical features of abutting property that are within one hundred (100) feet of the boundary must be shown.

(20) Lighting plan showing the height, materials, strength and coverage of on-site lighting demonstrating that lighting will not provide unnecessary glare to adjacent properties and streets.

(21) Landscaping Plan showing location and species of all plantings, names of plantings and/or individual trees or wooded areas to be retained within forty (40) feet of the sidelines of each street, and dimensions and plantings associated with any property line buffers;

(22) Suitable space to record the action and signatures of the Board members on the cover sheet of the Site Plan;

(23) A soils plan showing the SCS interpretation of suitability for on-site sewage disposal, or showing USGS surficial geology, or both. Board of Health sanctioned testing required under Title 5 (310 CMR 15.00) may be substituted for this overlay showing the results of test pit investigations;

(24) An Erosion and Dust Control Plan, indicating the erosion and dust control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, sediment basins, etc., and narrative description of how dust is to be controlled and how erosion from the site onto streets and into drainage systems is proposed to be controlled;

(25) Circulation Plan showing proposed vehicular, bicycle and pedestrian circulation routes, and areas reserved for snow stockpiling;

(26) Schematic building elevation plans showing the facades, heights, rooflines, windows and other building features that will be visible from the exterior;

3.18.8 Site Plan Review Criteria. The Planning Board shall consider the following matters during Site Plan Review and shall approve a site plan upon its determination that, taking into consideration the type and location of the development and the land use(s) involved, such matters have been satisfactorily addressed:

3.18.8.1 Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light, and air;

3.18.8.2 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets;

3.18.8.3 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;

3.18.8.4 Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

3.18.8.5 Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the Zoning By-Law; and

3.18.8.6 Mitigation of adverse impacts on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection, and streets.

3.18.9 Performance Guarantee

As a condition of Site Plan Review approval:

3.18.9.1 The Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form selected by the Planning Board, be posted with the Town to guarantee completion of construction of public infrastructure improvements, to the extent that such improvements are to be funded by the applicant,

rather than by the Town, either directly or through grant or other sources of funding, or by third parties, such as but not limited to utility companies.

3.18.9.2 The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all such construction of public infrastructure improvements in a manner satisfactory to the Planning Board within three (3) years from the date of approval, or the final date of the last extension of such approval, if any.

3.18.10 Appeals. Applicants for a Site Plan Review may appeal conditions imposed by the Planning Board to the Zoning Board of Appeals.

3.18.11 As-Built Plan. Upon completion of all work for a Major Site Plan, an As-Built plan and a letter of certification shall be submitted to Building Inspector by a registered professional engineer, registered architect, registered landscape architect or registered land surveyor, as appropriate to the work involved, that all work has been done substantially in compliance with the approved Site Plan.

3.18.12 Duration of Approval. Site Plan Review shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. In such case a request for extension of the date of completion must be submitted to the Planning Board.

3.18.13 Outside Consultants. The Planning Board may enlist the services of outside consultants including, but not limited to, engineers, attorneys, real estate professionals, and environmental scientists to review Site Plan submittals at the expense of the applicant.

3.18.14 Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby

(Amended at the October 19, 2009 Fall Town Meeting. Approved by the Attorney General on February 18, 2010.)

3.19 Adult Entertainment Uses

.1 **Authority, Purpose and Intent.** The purpose of this section is to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, in response to studies demonstrating their deleterious effects. This section addresses and mitigates the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime and blight, the flight of existing businesses and adverse impacts on public health, property values of residential and commercial properties, the business climate, and the general quality of life in the community. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Athol and its inhabitants.

This section is intended to be consistent with the provisions of MGL Chapter 40A and the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content or any communicative matter or materials, including sexually oriented matter or materials that are protected by the U.S. or Massachusetts Constitutions, nor to restrict or deny right that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Similarly, it is not the intent nor effect of this section to condone or legitimize the distribution of obscene or illegal matter or materials.

3.19.2 Adult Entertainment Uses. Adult Entertainment Uses shall include the following uses:

Adult Establishments which Display Live or Private Booth Nudity – Any establishment which provides live entertainment for its patrons which includes the display of nudity as a substantial or significant portion of such

live entertainment or which provides private or semi-private booths or areas for the viewing of live or recorded nudity, as nudity is defined by MGL c. 272, sec. 31.

Adult Establishments with Adult Materials – Any establishment for which a substantial or significant portion of the business involves the sale of adult books, magazines, videos, movies, software, any other media or electronics recording, or adult paraphernalia, as defined by MGL c. 40A, sec. 9A, or MGL c. 272, sec. 31.

3.19.3 Substantial or Significant Portion: The term "substantial or significant portion" as used herein shall mean any of the following:

1. Ten percent (10%) or more of the business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time.

2. Ten percent (10%) or more of the annual number of gross sales, rentals, or other business transactions.

3. Ten percent (10%) or more of the annual gross business revenue.

4. Ten percent (10%) or more of the hours during which the establishment is open.

3.19.4 Adult Entertainment Uses by Special Permit. The operation of any Adult Entertainment Use, as defined herein, shall require a Special Permit from the Athol Zoning Board of Appeals. Any Special Permit for Adult Entertainment Use may be authorized only in the General Zoning District. The application for a special permit for an Adult Use shall provide the following information:

- name and address of the legal owner of the establishment;
- legal owner of the property;
- manager of the proposed establishment;
- proposed number of employees;
- proposed security precautions;
- description of compliance with the citing criteria set forth below in sections 3.19.6, 3.19.7, and 3.19.8; and
- description and illustration of the physical layout of the premises.

3.19.5 Adult Entertainment Use Special Permit shall be issued to any applicant, or the representative of an owner, operator, or manager of an adult entertainment facility who has been convicted of violating the provisions or MGL c. 119, Sec. 63 (Inducing or abetting delinquency of a child) or MGL c. 272 (Crimes against chastity, morality, decency and good order) or equivalent statutes in other jurisdictions. The applicant shall include authorization for the Town to confirm criminal record information through the appropriate authorities.

3.19.6 The operation of an Adult Entertainment Use, as defined herein, shall not be situated within 750 feet of any establishment that serves or sells alcoholic beverages that are consumed on the premises.

3.19.7 An Adult Entertainment Use, as defined herein, shall not be located within 1,000 feet of any other Adult Entertainment Use, as defined herein.

3.19.8 In granting a special permit, The Athol Zoning Board of Appeals shall provide that an Adult Entertainment Use, as defined herein, shall not be located within 350 feet of the following:

3.19.8.1 A residential dwelling;
3.19.8.2 A structure or parcel used for educational or religious purposes;
3.19.8.3 A structure or parcel owned, operated or maintained by the federal government, the Commonwealth of Massachusetts, or the Town of Athol for use by, or with activities open to the general public, such as a library, park, playground or recreational area;
3.19.8.4 A structure or parcel used for a licensed childcare facility registered with the town;
3.19.8.5 A structure or parcel used for a hospital or medical clinic;
3.19.8.6 A structure or parcel used for a senior center, nursing home or assisted living facility;

3.19.8.7 A cemetery;
3.19.8.8 An historic district or site.

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

3.19.10 No Adult Entertainment Use, as herein defined, shall be allowed to display for advertisement or other purposes any sign, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in MGL c. 272, Sec. 31. No Adult Entertainment Use shall have a freestanding accessory sign.

3.19.11 A natural or artificial visual barrier shall be installed between the Adult Entertainment Use and a residential dwelling. The barrier must obscure the residential dwelling from being able to view the Adult Entertainment Use.

3.19.12 No loudspeakers or sound equipment shall be used by an Adult Entertainment Use for the amplification of sound to a level discernible by the public beyond the walls of the building in which the Adult Entertainment Use is conducted.

3.19.13 An Adult Entertainment Use shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 am and 10:00 am of any particular day. In the case of an Adult Bookstore, Video Store and Adult Paraphernalia Store, business hours shall be limited to hours between 9:00 am to 10:00 pm. These hours of operation may be further restricted in the conditions granting a Special Permit for an Adult Entertainment Use.

3.19.14 Any special permit granted for an Adult Entertainment Use shall be personal to the applicant, shall not run with the land, and shall expire upon expiration of the applicant's lease or upon sale or transfer of the applicant's property/business.

3.19.15 Pre-Existing Adult Entertainment Uses. Any existing adult entertainment uses, as defined herein, shall apply for a special permit from the Zoning Board of Appeals within 90 days following the adoption of this bylaw. Existing adult entertainment uses are exempt from the criteria of Sections 3.19.6, 3.19.7 & 3.19.8

3.19.16 Conditions, Safeguards, Limitations, For Adult Entertainment Uses. In granting a special permit, the Zoning Board of Appeals may impose additional conditions, safeguards and limitations on the permit including but not limited to additional buffer zones, or screening.

3.19.17 Severability. The provisions of this section are severable and, in the event, that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.
(Adopted at the May 5, 2008 Annual Town Meeting. Approved by the Attorney General on July 8, 2008.)

3.20 Priority Development Sites

3.20.1. Purpose. The Town of Athol has adopted the provisions of Massachusetts General Law Chapter 43D and established Priority Sites through Town Meeting vote. The purpose of these districts is to promote commercial, industrial, and mixed-use development projects on sites that have been identified as priority sites for such development.

3.20.2. Applicability. The provisions of this section apply to all locations approved at Town Meeting and by the State Interagency Permitting Board. Unless specifically noted in this section, all provisions of this Zoning Bylaw apply to projects located within a Priority Development Site. (*Amended at the October 19, 2009 Fall Town Meeting. Approved by the Attorney General on February 18, 2010.)*

3.20.3. Permit Manager and Permit Authorizing Committee. For the purpose of expediting the permitting process for designated Priority Development Sites, the Town of Athol hereby designates the Town Manager as the Permit Manager. The Town Manager will appoint members to the Permit Authorizing Committee which will consist of the Town Manager and one member from each appropriate local permitting authority: Conservation Commission, Board of Health, Department of Public

Works, Fire Department, Building Department, and the Planning Board. (*Amended at the October 19, 2009 Fall Town Meeting. Approved by the Attorney General on February 18, 2010.)*

3.20.3a) The Permit Authorizing Committee shall act on matters within its jurisdiction under Chapter 43D of the General Laws and this By-Law, overseeing the review of proposed projects; the review consisting of advisement, meetings, and a public hearing. The Committee shall provide a decision for proposed projects may include approval, approval with conditions, or denial of the proposed project.

3.20.4. Building Permit Decisions. All Building Permit decisions will be administered by the Building Inspector on projects located within the boundaries of a Priority Site and shall be issued within 180 calendar days after the filing of a complete application with the Permit Manager as specified in the Town of Athol Ch. 43D Streamline Permitting Guidebook. Decisions may include approval, approval with conditions, or denial of the proposed project.

3.20.4a) Other Exempted Decisions. Decisions administered by the Zoning Board of Appeals and the Subdivision Control Law are exempt from the Permit Authorizing Committee review of Priority Sites. Decisions and permitting issued by these boards for Priority Sites shall be issued within 180 calendar days after the filing of a complete application with the Permit Manager as specified in the Town of Athol Ch. 43D Streamline Permitting Guidebook. Decisions may include approval, approval with conditions, or denial of the proposed project.

3.20.5. Procedures. Applicants for a Priority Development Site will obtain from the office of Athol Town Manager the Town of Athol Ch. 43D Streamline Permitting Guidebook, which will instruct the applicant on the procedural process for expedited permitting as well as provide the applicant with the application and fee schedule hereby adopted for this said bylaw.

3.20.6 Town of Athol Ch. 43D Streamline Permitting Guidebook. The Permit Authorizing Committee may adopt and from time to time amend the contents of the Town of Athol Ch. 43D Streamline Permitting Guidebook for the administration of guidelines set forthwith.
(Adopted at the May 5, 2008 Annual Town Meeting. Approved by the Attorney General on July 8, 2008.)

3.21 Small-Wind Energy Systems

3.21.1 Purpose and Intent

The purpose of this bylaw is to provide criteria to allow for responsibly sited small-wind energy systems as accessory uses in a manner that protects public health and safety. This bylaw is intended to be used in conjunction with other regulations adopted by the Town, including site plan review and other local bylaws designed to encourage appropriate land use and environmental protection.

This bylaw applies to:

- stand-alone, tower-mounted small-wind energy systems with rated nameplate capacity no greater than 60 kilowatts (kW) proposed to be constructed after the effective date of this bylaw, and,
- roof-mounted, building-integrated or building-mounted vertical-axis wind turbines with a total rated nameplate capacity no greater than 60 kW proposed to be constructed after the effective date of this bylaw.

This bylaw does not apply to utility-scale and wind energy conversion facilities larger than 60 kW of rated nameplate capacity.

Small-wind energy systems generally are designed to provide on-site energy for a residence and accessory structures, as well as municipal buildings, office and industrial parks, commercial shopping areas, farms, etc. Subject to the requirements of this bylaw, small-wind energy systems shall be permitted in all zoning districts except the Central Commercial District. In the Central Commercial District, vertical-axis wind turbine systems (roof-mounted, building-integrated or building-mounted) are permitted; stand-alone, tower-mounted systems are not permitted in this zone.

3.21.2 Definitions

Height: The height of a conventional wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height. The height of a vertical-axis wind turbine measured from natural grade to the top of the structure.

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

Small-Wind Energy System: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines with a rated nameplate capacity of 60 kW or less. Such systems are accessory uses under this bylaw.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. Horizontal-axis wind turbines consist of a tower with an electrical generator and rotor shaft with two or more blades at the top of the tower and pointed into the wind. Vertical-axis wind turbines are wind energy conversion systems in which the main rotor shaft runs vertically, generators and gearboxes can be placed close to the ground and the turbines do not need to be pointed into the wind.

3.21.3 General Requirements (Building Inspector Issued Permit)

No small-wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Town building inspector. All small-wind energy systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. Such permits may also impose reasonable conditions and safeguards and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the small-wind energy system, should they occur. No alterations, additions, modifications, substitutions or deletions shall be made to such wind energy conversion system without approval of the same pursuant to the provisions of this bylaw. General requirements are as follows:

(1) Submission requirements

The application for a building permit shall be accompanied by the fee required for a building permit; the application also shall be accompanied by:

(a) A complete plot plan drawn to scale prepared and stamped by a registered land surveyor indicating property lines and physical dimensions of the subject property; right-of-way of any public road that is contiguous with the property; location of the proposed small-wind energy system, including foundations, guy lines and anchors and associated equipment; location, dimensions and types of existing structures on the subject property; existing grade elevation; aboveground utility lines; and, any other significant features or appurtenances;

(b) Structural drawings of the wind tower, including pad design and guy wire design, if applicable, prepared and stamped by a registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts certifying that the tower (including footings and rotor system) is designed to comply with the wind load requirements of the Massachusetts Building Code; and,

(c) Drawings and specifications of the wind system, including manufacturer and model, tower height, tower foundation blueprints or drawings, generator, hub and blades, electrical support facilities, including transformers, cables and control devices, prepared and stamped by a registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

A permit issued pursuant to this bylaw shall be transferable. A permit issued pursuant to this bylaw shall expire if the small-wind energy system is not installed and functioning within 24-months from the date the permit is issued.

(2) General Siting Standards

Wind turbines shall be set back a distance of no less than 1.1 times the total height of the wind turbine from all overhead utility lines, public road or right of way and property boundaries.

Where applicable, the minimum distance from any guy wire to the property line is 10 feet, and no guy wires shall pass over any ground transmission lines. The maximum height of a wind turbine shall be 100 feet measured from the mean grade surrounding the support pad(s); this height allowance represents an exception from maximum building heights per Article II, Section 2.6 Intensity of Use Schedule. No more than one stand-alone tower per lot or on contiguous lots held in common ownership shall be allowed.

(3) Design Standards

The small-wind energy system shall remain painted or finished in the non-reflective color or finish originally applied by the manufacturer.

(4) Lighting and Signage

Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the small-wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Signage shall be restricted to reasonable identification of the manufacturer of the small-wind energy system along with a warning of electrical shock or high voltage and shall defer to the requirements of the town sign regulations.

(5) Safety, Aesthetic and Environmental Standards

Wind turbines or other structures that are part of a small-wind energy system shall be designed to prevent unauthorized access. For instance, a tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

The minimum distance between the ground and any part of the rotor or blade systems shall be 20 feet. All power transmission lines from small-wind energy systems to any building or other structure shall be located underground. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage.

Each conventional wind energy conversion system must be equipped with both manual and automatic controls to limit the rotational speed of the blades below the design limits of the rotor to prevent uncontrolled rotation.

No small-wind energy system shall be located in any required front yard area.

(6) Noise

The small-wind energy system and associated equipment shall conform with provisions of the Department of Environmental Protection Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the Zoning Board of Appeals agree that those provisions shall not be applicable.

(7) Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small-wind energy system and is otherwise prescribed by applicable laws, regulations and bylaws, including regulations set forth by the Conservation Commission.

(8) Monitoring and Maintenance

The applicant shall maintain the small-wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures. Every fifteen (15) years, or upon request by the Building Inspector, the owner shall submit a structural report by a Massachusetts-registered professional engineer to the Building Inspector attesting to the structural integrity of the wind generator, tower and/or support system.

(9) Abandonment or Decommissioning

Any small-wind energy system that has reached the end of its useful life or has been abandoned shall be removed. A small-wind energy system shall be considered abandoned when it fails to operate for one year. Upon a Notice of Abandonment issued by the Building Inspector, the small-wind energy system owner will have 30 days to provide sufficient evidence that the system has not been abandoned or the town shall have the authority to enter the owner's property and remove the system at the owner's expense.

(10) Excess power generation

A system operated to provide more than 50% of its rated nameplate capacity for off-site energy consumption shall not be considered a small-wind energy system except in cases where such power is consumed by buildings and structures on an adjacent property or within 1,000 feet, whichever is greater. Also, this bylaw shall not be interpreted to prohibit the sale of excess power generated from time to time from a system designed to meet the energy needs of the principal use.

(11) Systems for use in common

Contiguous property owners may construct a small-wind energy system for use in common, provided that the required setback is maintained relative to the property lines of abutters who are not participating in the scheme; in addition, such a system may not be rented or leased to any other corporation or individual and shall be for the sole use and benefit of the owners of property which utilize such system or the tenants or lessees of such property. The mechanical or electrical energy produced or generated by such system may not be sold or otherwise made available to any individual or corporation other than the owner, tenant or lessee of the subject properties. If such wind energy conversion system is to be used in common, all owners and users of such system shall be made part of the application, and appropriate underwriter certificates, etc., shall be submitted for all properties, buildings and structures to be served by such system.

3.21.4 Criteria Exceptions

If the proposed small-wind energy system requires exceptions from the criteria of the general requirements set forth above, then the applicant must seek a special permit from the Zoning Board of Appeals. The Zoning Board of Appeals will consider any and all exceptions from general requirements, such as:

- Roof-mounted, building-integrated or building-mounted vertical-axis wind turbines exceeding height limitations defined in Article II, Section 2.6 Intensity of Use Schedule.
- Television, radio or other communication antenna may be affixed or otherwise made a part of the small-wind energy system if such antennae are allowed uses in the zone.
- Reduction of the minimum setback distance if abutters directly within the fall zone of the tower provide written endorsement so long as said wind turbine are set back 1.1 times their height from inhabited structures on adjacent properties, overhead utility lines and public road or right of way; in such instances, said abutters shall record a deed restriction.

3.21.5 Required Recommendations

In addition to the general conditions and procedures established in Section 1.2.1.2 of the Zoning Bylaw for all special permits, the following requirements and procedures shall apply:

Compliance with Laws, Bylaws and Regulations: The construction and operation of all such proposed small-wind energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA requirements.

Utility Notification: No small-wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Temporary Meteorological Towers (Met Towers): Met towers shall be permitted under the same standards as a small-wind energy system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three (3) years, after which an extension may be granted. Wind monitoring shall be permitted in all applicable zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space and building coverage requirements.

3.21.6 Enforcement / Noncompliance

It is unlawful for any person to construct, install, or operate a small-wind energy system that is not in compliance with this bylaw or with any condition contained in a building permit issued pursuant to this bylaw. Small-wind energy systems installed prior to the adoption of this bylaw are exempt.

This bylaw shall be administered and enforced by the Building Inspector. The Building Inspector may enter any property for which a building permit has been issued under this bylaw to conduct an inspection to determine whether the conditions stated in the permit have been met. Any person who fails to comply with any provision of this bylaw or a building permit issued pursuant to this bylaw shall be subject to enforcement and penalties as allowed by applicable law.

3.21.7 Severability

The provisions of this bylaw are severable; if any section, subdivision, paragraph of other part of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

(Adopted at the May 4, 2009 Annual Town Meeting. Approved by the Attorney General on September 21, 2009.)

3.22 Large-Wind Energy Systems

3.22.1 Purpose and Intent

The purpose of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-wind energy systems that protect public health and safety; minimize impacts on scenic, natural and historic resources; and provide adequate financial assurance for the eventual decommissioning of such systems.

This bylaw is to be used in conjunction with other regulations adopted by the town, including site plan review and other local bylaws designed to encourage appropriate land use, environmental protection and provision of adequate infrastructure development. The provisions set forth in this bylaw shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of land-based, large-wind energy systems.

3.22.2 Applicability

This bylaw applies to all utility-scale and on-site large-wind energy systems with rated nameplate capacity of more than 60 kilowatts (kW) proposed to be constructed in designated locations after the effective date of this bylaw. This bylaw also pertains to physical modifications to existing large-wind energy systems that materially alter the type, configuration, or size of such systems or related equipment.

Subject to the requirements of this bylaw, large-wind energy facilities shall be permitted in the following zoning districts:

- Industrial Commercial (I) zoning district
- Rural Single-Family Residential (RC) zoning district, on parcels at an elevation of at least 225 meters above sea level, exclusive of the Bearsden Conservation Area; Millers River Wildlife

Management Area; and Priority Habitats of Rare Species as defined by the Natural Heritage & Endangered Species Program (NHESP).

3.22.3 Definitions

Building Inspector: The inspector of buildings, building commissioner, or local inspector charged with the enforcement of the state building code and zoning bylaws.

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

On-Site Large-Wind System: A wind project located at a commercial, industrial, agricultural, institutional or public facility that will generate electricity on-site.

Permit Granting Authority: The Permit Authorizing Committee, as defined in section 3.17, Major Commercial Overlay District (MCOD), shall be the Permit Granting Authority for Large-Wind Energy Systems sited in the Industrial Commercial (I) zoning district. The Planning Board shall be the Permit Granting Authority for Large-Wind Energy Systems sited in the Rural Single-Family Residential (RC) zoning district

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

Shadow Flicker: Flickering shadows cast on the ground and stationary objects caused by sunlight passing through the rotating blades of a wind turbine; occurrence depends on proximity, turbine height, time of year and time of day. Generally, compliance with appropriate setbacks to mitigate noise is sufficient to prevent shadow flicker. Models can calculate whether shadow flicker will fall on a specific location near a wind turbine.

Utility-Scale Wind Energy System: A commercial large-wind energy system, where the primary use of the system is electrical generation to be sold to the wholesale electricity markets.

Wind Energy System: All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Wind Monitoring or Meteorological Tower: A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a large-wind energy system can be expected to generate.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator.

3.22 General Requirements for all Large-Wind Energy Systems

The following requirements are common to all large-wind energy systems to be sited in designated locations.

3.22.4.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all such proposed large-wind energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

3.22.4.2 Building Permit and Building Inspection

No large-wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Town building inspector. Under the state building code, work must commence within six (6) months from the date a building permit is issued, however, an applicant may request an extension of the permit and more than one extension may be granted.

3.22.4.3 Fees

The application for a building permit for a large-wind energy system must be accompanied by the fee required for a building permit.

3.22.4.4 Site Plan Review

No large-wind energy system shall be erected, constructed, installed, or modified as provided in section 3.22.4 without first undergoing site plan review.

Large-wind energy systems, with a rated nameplate capacity of 250 kW or less, and/or a height of 150 feet or less, which are to be sited in the Industrial Commercial zoning district, shall be subject to the Minor MCOD Site Plan Review process as defined in section 3.17.13 6, MCOD Site Plan Review - Application Procedures.

Large-wind energy systems, with a rated nameplate capacity of 250 kW or less, and/or a height of 150 feet or less, which are to be sited in the Rural Single-Family Residential zoning district, shall be subject to the Minor Site Plan review process as defined in section 3.18.6, Minor Site Plan Review.

Large-wind energy systems, with a rated nameplate capacity of more than 250 kW, and/or a height of more than 150 feet, which are to be sited in the Industrial Commercial zoning district, shall be subject to the Major MCOD Site Plan Review process as defined in section 3.17.13 6, MCOD Site Plan Review - Application Procedures.

Large-wind energy systems, with a rated nameplate capacity of more than 250 kW, and/or a height of more than 150 feet, which are to be sited in the Rural Single-Family Residential zoning district, shall be subject to the Major Site Plan review process as defined in section 3.18.7, Major Site Plan Review.

In instances when and where a wind energy system is proposed in close proximity to an existing large-wind energy system, the Permit Granting Authority is encouraged to commission a study, to be paid for by the applicant, to determine whether the proposed system will interfere with the operation and therefore the economic viability of the existing large-wind energy system.
In addition, the following requirements apply to all large-wind energy systems:

3.22.4.4.1 General

All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.

3.22.4.4.2 Required Documents

Pursuant to the site plan review process, the applicant shall provide the following documents:

(a) A site plan showing:

i. Property lines and physical dimensions of the site parcel and adjacent parcels within 300 feet of the site parcel;

ii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet of the site parcel, including distances from the wind-energy system to each building shown;

iii. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;

iv. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;

v. Any existing overhead utility lines;

vi. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind turbine foundation, of 1.2 times the height of the proposed wind turbine;

vii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;

viii. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;

ix. Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;

x. One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;

xi. Documentation of the large-wind energy system's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;

xii. Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;

xiii. The name, contact information and signature of any agents representing the applicant; and

xiv. A maintenance plan for the large-wind energy system;

(b) Documentation of actual or prospective access and control of the project site (see also Section 3.22.5);

(c) An operation and maintenance plan (see also Section 3.22.6);

(d) A location map consisting of a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed system site, including turbine sites, and the area within at least two miles from the system. Zoning district designation for the subject parcel must be included; submission of a copy of a zoning map with the parcel identified is suitable for this purpose;

(e) Proof of liability insurance, in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the system;

(f) Certification of height approval from the Federal Aviation Administration;

(g) A statement that evidences the large-wind energy system's conformance with Section 3.22.10.6, listing existing ambient sound levels at the site and maximum projected sound levels from the large-wind energy system; and,

(h) Description of financial surety that satisfies Section 3.22.13.2.

The Permit Granting Authority may waive documentary requirements as it deems appropriate.

3.22.5 Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed large-wind energy system. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

3.22.6 Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind system.

3.22.7 Utility Notification

No large-wind energy system shall be installed until evidence has been given that the utility company that operates the electrical grid where the system is to be located has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3.22.8 Temporary Meteorological Towers (Met Towers)

A building permit shall be required for stand-alone temporary met towers. No site plan review shall be required for met towers.

3.22.9 Design Standards

3.22.9.1 Appearance, Color and Finish

Color and appearance shall comply with Federal Aviation Administration (FAA) safety requirements.

3.22.9.2 Lighting

Wind turbines shall be lighted only if required by the FAA. Lighting of other parts of the large-wind energy system, such as accessory structures, shall be limited to that required for safety and operational

purposes, and shall be reasonably shielded from abutting properties. Except as required by the FAA, lighting of the large-wind energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3.22.9.3 Signage

Signs on large-wind energy systems shall comply with Section 3.9, Sign Regulations. The following signs shall be required, including:

(a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warnings of any danger, and,

(b) Educational signs providing information about the system and the benefits of renewable energy.

Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the large-wind energy system.

3.22.9.4 Utility Connections

Reasonable efforts, as determined by the Permit Granting Authority, shall be made to place all utility connections from the large-wind energy system underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3.22.9.5 Appurtenant Structures

All appurtenant structures to large-wind energy systems shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage systems, transformers, and substations, shall be architecturally compatible with each other and contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

3.22.9.6 Height

The height of large-wind energy systems shall not exceed 500 feet, with a minimum blade clearance from the ground immediate below of 100 feet.

3.22.10 Safety and Environmental Standards

3.22.10.1 Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments, and/or the local emergency services entity designated by the local government. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the large-wind energy system shall be clearly marked. The applicant or system owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

3.22.10.2 Unauthorized Access

Large-wind energy systems shall be designed to prevent unauthorized access. For instance, the towers of wind turbines shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.

3.22.10.3 Setbacks

Wind turbines may not be sited within:

(a) a distance equal to the height of the wind turbine from buildings, critical infrastructure, or private or public ways that are not part of the large-wind energy system;
(b) Three times (3x) the height of the wind turbine from the nearest existing residential structure; and,
(c) one point one times (1.1x) the height of the wind turbine from the nearest property line.

3.22.10.4 Setback Waiver

The Permit Granting Authority may reduce the minimum setback distance as appropriate based on project and site-specific considerations, such as turbine type, topography, tree cover, etc., to allow for consideration of factors that may mitigate noise and other impacts to abutters, e.g. topography, tree cover, turbine technology, etc., which may reduce sound impacts, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a building permit under the provisions of this section.

Notably, with respect to Section 3.22.10.3 (a), if a large-wind turbine system is proposed as part of an integrated, multiple-use industrial commercial development, then the Permit Granting Authority may allow setbacks less than the height of the wind turbine from buildings, critical infrastructure and/or private ways that are part of the proposed development.

3.22.10.5 Shadow Flicker

Large-wind energy systems shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

3.22.10.6 Sound

The operation of the large-wind energy system shall conform to the provisions of the Massachusetts Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10).

3.22.10.7 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the large-wind energy system or otherwise prescribed by applicable laws, regulations, and bylaws. Systems design shall minimize fragmentation of open space areas and shall avoid permanently protected open space when feasible. Systems also shall be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.).

3.22.10.8 Hazardous Materials

No hazardous materials or waste shall be discharged on the site of any large-wind energy system. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site is required.

3.22.11 Monitoring and Maintenance

3.22.11.1 Large-Wind Energy System Conditions

The applicant shall maintain the large-wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the large-wind energy system and any access road(s), unless accepted as a public way.

3.22.11.2 Reporting

Notice shall be provided to the town of any change in ownership of the system.

After the large-wind energy system is operational, the applicant shall submit to the town building inspector at annual intervals from the date of site plan approval, a report detailing operating data for the system, including but not limited to days of operation, energy production, etc.

3.22.11.3 Modifications

All material modifications to a large-wind energy system made after issuance of the required building permit shall require approval by the Permit Granting Authority.

3.22.12 Use by Telecommunications Carriers

Large-wind energy systems may be used to locate telecommunications antennas, subject to applicable regulations governing such uses, and subject to the following requirements:

(a) All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round (either through effective landscaping or existing natural vegetated buffers);
(b) Antennas shall be in keeping with the design of the wind turbine tower; and,
(c) All cabling shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

3.22.13 Abandonment or Decommissioning

3.22.13.1 Removal Requirements

Any large-wind energy system which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the system no more than 150 days after the date of discontinued operations. The applicant shall notify the town building inspector by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

(a) Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Permit Granting Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.22.13.2 Financial Surety

Applicants for utility-scale large-wind energy systems shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the system and remediate the landscape, in an amount and form determined to be reasonable by the Permit Granting Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned systems. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

3.22.13.3 Abandonment

Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the large-wind energy system shall be considered abandoned when the system fails to operate for more than one year without the written consent of the building inspector. If the applicant fails to remove the system in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the system.

3.22.14 Severability

The provisions of this bylaw are severable; if any section, subdivision, paragraph of other part of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.
(Adopted at the June 13, 2011 Annual Town Meeting. Approved by the Attorney General on October 24, 2011.)

3.23 Accessory Agriculture

3.23.1 Purpose and Intent

To permit as an accessory use on single-family residential premises, the raising and keeping for non-commercial purposes of horses, livestock, or other farm animals by the owner of the land on which the use is located.

3.23.2 Definitions

Farm Animals: Domestic animals raised to produce commodities such as food, fiber and labor.
Livestock: Domestic animals, such as cattle or horses, raised for home use or for profit.
Poultry: Domestic fowls, such as chickens, turkeys, ducks, or geese, raised for meat or eggs.
Poultry Hen: Domestic female chicken.
Rooster: Adult male chicken.

3.23.3 The Accessory Agriculture use shall only be permitted in the Medium Single-Family Residential (RB), Rural Single-Family Residential (RC), and Industrial Commercial (I) zoning districts.

3.23.4 No minimum acreage shall be required for this bylaw.

3.23.5 For the keeping of twelve (12) poultry hens or less, the applicant shall submit an "APPLICATION FOR USE OR CHANGE OF USE" form with the building department.

3.23.6 For the keeping of more than twelve (12) poultry hens, or any quantity of roosters, livestock or other farm animals, the applicant shall submit an "APPLICATION FOR USE OR CHANGE OF USE" form with the building department and shall also obtain a special permit from the Zoning Board of Appeals.

3.23.7 Structures housing poultry shall comply with the regulations defined in section 3.2, Accessory Buildings and Uses.

(Approved at the October 17, 2011 Fall Town Meeting. Approved by the Attorney General on February 27, 2012)

3.24 Ground-Mounted Solar Photovoltaic Installations

3.24.1 Purpose and Intent

The purpose and intent of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of ground-mounted solar photovoltaic installations which address public safety, minimize impacts on scenic, natural and historic resources, and, in the case of large-scale commercial installations, to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of ground-mounted solar photovoltaic installations.

3.24.2 Applicability

This bylaw applies to commercial and residential ground-mounted solar photovoltaic installations greater than 5,000 gross square feet proposed to be constructed after the effective date of this bylaw. This bylaw also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

This bylaw does not pertain to solar photovoltaic panels installed on residential, industrial or commercial structures. Those installations are subject to the State Building Code.

Subject to the requirements of this bylaw, ground-mounted solar photovoltaic installations shall be permitted in all zoning districts.

3.24.3 Permit Granting Authority

The Permit Authorizing Committee, as defined in section 3.17, Major Commercial Overlay District (MCOD), shall be the Permit Granting Authority for ground-mounted solar photovoltaic installations sited on lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts. In all other cases, the Permit Granting Authority shall be the Planning Board.

3.24.4 General Requirements for all Ground-Mounted Solar Photovoltaic Installations

The following requirements shall apply to all ground-mounted solar photovoltaic installations.

3.24.4.1 Compliance with Laws, Bylaws and Regulations

The construction and operation of all ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and

fixtures forming part of a ground-mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.

3.24.4.2 Building Permit and Building Inspection

No ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3.24.4.3 Fees

The application for a building permit for a ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit.

3.24.4.4 Site Plan Review

All ground-mounted solar photovoltaic installations greater than 5,000 gross square feet shall undergo site plan review by the Permit Granting Authority prior to construction, installation or modification as provided in this section as well as section 3.17.13, MCOD Site Plan Review and section 3.18, Site Plan Review, as applicable. Square footage shall be determined by the dimensions of the solar photovoltaic panels used for the installation. For example, if the panel dimensions are 3 feet by 5 feet and a total of 300 panels are to be installed, the gross square footage shall be calculated as follows: (3 x 5) x 300 = 4,500 square feet.

3.24.4.4.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

3.24.4.4.2 Required Documents

Pursuant to the site plan review process, the applicant shall also provide the following documents:

(a) A site plan showing:
- **i.** Property lines and physical features, including roads, for the project site;
- **ii.** Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- **iii.** Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
- **iv.** 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;
- **v.** Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- **vi.** Name, address, and contact information for proposed system installer;
- **vii.** Name, address, phone number and signature of the applicant, as well as all co-proponents or property owners, if any;
- **viii.** The name, contact information and signature of any agents representing the applicant; and

(b) Documentation of actual or prospective access and control of the project site (see also Section 3.24.5);

(c) An operation and maintenance plan (see also Section 3.24.6);

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

(e) Proof of liability insurance at an amount approved by the Permit Granting Authority; and

(f) Description of financial surety that satisfies Section 3.24.12.3.

(g) Architectural concepts of sight lines from abutting residential, commercial and industrial structures.

The Permit Granting Authority may waive documentary requirements, as it deems appropriate.

3.24.5 Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

3.24.6 Operation & Maintenance Plan

The applicant shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

3.24.7 Utility Notification

No ground–mounted solar photovoltaic installation shall be constructed until evidence has been given to the Permit Granting Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3.24.8 Dimension and Density Requirements

3.24.8.1 Setbacks

For ground-mounted solar photovoltaic installations, front, side and rear setbacks must observe all yard requirements applicable to the principal structure as defined in section 2.6, Intensity of Use Schedule. The Permit Granting Authority may increase these setbacks if they determine it to be appropriate.

3.24.8.2 Appurtenant Structures

All appurtenant structures to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures shall be shaded from view by vegetation approved by the Permit Granting Authority and/or joined or clustered to avoid adverse visual impacts.

3.24.9 Design Standards

3.24.9.1 Lighting

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

3.24.9.2 Signage

Signs shall comply with Section 3.9, Sign Regulations. The following signs shall be required, including:

(a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warnings of any danger, and,
(b) Educational signs providing information about solar photovoltaic panels and the benefits of renewable energy.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3.24.9.3 Utility Connections

Reasonable efforts, as determined by the Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.

3.24.10 Safety and Environmental Standards

3.24.10.1 Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. The applicant shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked in the plan. The applicant shall identify an official representative for public inquiries throughout the life of the installation.

3.24.10.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. The installation design shall minimize fragmentation of open space areas and shall avoid permanently protected open space when feasible. The installation shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity.

3.24.11 Monitoring and Maintenance

3.24.11.1 Solar Photovoltaic Installation Conditions

The applicant shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The applicant shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

3.24.11.2 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Permit Granting Authority. A change to the specifications of any of the equipment installed at the site shall be considered a material modification. A change of the supplier for any of the equipment installed at the site shall not be considered a material modification.

3.24.12 Abandonment or Decommissioning

3.24.12.1 Removal Requirements

Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 3.24.12.2 of this bylaw shall be removed. The applicant shall physically remove the installation no more than 150 days after the date of discontinued operations. The applicant shall notify the town building inspector by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

(a) Physical removal of all ground-mounted solar photovoltaic installations, structures, equipment, and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Permit Granting Authority may allow the applicant to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.24.12.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails

to operate for more than six months without the written consent of the building inspector. If the applicant fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove all equipment and structures that comprise the ground-mounted solar photovoltaic installation.

3.24.12.3 Financial Surety

The applicant shall provide a form of surety, either through an escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Permit Granting Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Permit Granting Authority. Such surety shall be held by the Town Treasurer and have either an automatic renewal date clause or no expiration date. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

3.24.13 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

(*Adopted at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)*

3.25 Wireless Telecommunication Facilities

3.25.1 Purpose and Intent

The purpose and intent of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of Wireless Telecommunication Facilities, Repeaters and Towers that protect public health and safety; minimize impacts on scenic, natural and historic resources; and provide adequate financial assurance for the eventual decommissioning of such facilities.

This bylaw is to be used in conjunction with other regulations adopted by the town, including site plan review and other local bylaws designed to encourage appropriate land use, environmental protection and provision of adequate infrastructure development. The provisions set forth in this bylaw shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of Wireless Telecommunication Facilities, Repeaters and Towers.

3.25.2 Applicability

This bylaw applies to all Wireless Telecommunication Facilities, Repeaters and Towers proposed to be constructed in designated locations after the effective date of this bylaw. This bylaw also pertains to physical modifications to existing Wireless Telecommunication Facilities, Repeaters and Towers that materially alter the type, configuration, or size of such facilities or related equipment.

Subject to the requirements of this bylaw, Wireless Telecommunication Facilities shall be permitted in the Rural Single-Family Residential (RC) and the Industrial Commercial (I) zoning districts. Wireless Transceiver Antenna Arrays shall be permitted in all zoning districts.

3.25.3 Exemptions

The provisions of this bylaw shall not apply to:

1. Wireless telecommunications facilities providing safety or emergency services for any federal, state or municipal body;
2. Amateur radio antennas licensed by the Federal Communications Commission and subject to General Laws Chapter 40A, section 3, provided that such antennas are not used for any commercial purpose and do not exceed 35 feet in height;
3. Home television or internet access antennas;
4. Medical facilities for transmittal of clinical medical information.

No Wireless Telecommunications Facility or Repeater shall be considered exempt from this bylaw for any reason whether or not said Facility or Repeater will share a Tower or other structure with such exempt uses.

3.25.4 Definitions

Building Inspector: The inspector of buildings, building commissioner, or local inspector charged with the enforcement of the state building code and zoning bylaws.

Co-location: The use of a single free-standing Wireless Telecommunications Facility by more than one carrier.

Existing Structure: Residential or commercial buildings, barns, silos, water towers, public utility transmission poles or towers, or other similar structures where wireless telecommunication technology is to be deployed.

Height: The height of a wireless transceiver tower structure measured from the grade at the base of the tower to its' highest point.

Permit Granting Authority: The Permit Authorizing Committee, as defined in section 3.17, Major Commercial Overlay District (MCOD), shall be the Permit Granting Authority for Wireless Telecommunication Facilities and Wireless Transceiver Antenna Arrays sited on lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts. The Planning Board shall be the Permit Granting Authority for Wireless Telecommunication Facilities and Wireless Transceiver Antenna Arrays sited in all other locations throughout the Town of Athol.

Provider or Carrier: Any person, corporation or other entity engaged in the business of providing wireless telecommunication services.

Repeater: A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a Wireless Telecommunication Facility.

Wireless Telecommunications Facility: A facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment and equipment shelters, accessory buildings and structures, involved in sending and receiving telecommunications, radio signals and high-speed (Broadband) internet service to subscribers.

Wireless Transceiver Antenna Array: Any series of antenna or array of antennas, including Repeaters, that receives and transmits telecommunications or radio signals as well as high-speed (Broadband) internet service to subscribers.

Wireless Transceiver Tower Structure: A lattice structure or framework, or monopole that is designed to support wireless transceiver antenna arrays.

3.25.5 General Requirements for all Wireless Telecommunication Facilities

The following requirements are common to all Wireless Telecommunication Facilities to be sited in designated locations.

3.25.5.1 Compliance with Laws, Bylaws and Regulations

The construction and operation of all such proposed Wireless Telecommunication Facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

3.25.5.2 Building Permit and Building Inspection

No Wireless Telecommunication Facilities shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Town building inspector. Under the state building code, work must commence within six (6) months from the date a building permit is issued, however, an applicant may request an extension of the permit and more than one extension may be granted.

3.25.5.3 Fees

The application for a building permit for a Wireless Telecommunication Facility must be accompanied by the fee required for a building permit.

3.25.5.4 Site Plan Review

No Wireless Telecommunication Facility shall be erected, constructed, installed, or modified as provided in section 3.25.5 without first complying with the Site Plan Review process.

Wireless Telecommunication Facilities, which are to be sited on lots that the town has received Chapter 43D, Expedited Permitting designation from the Commonwealth of Massachusetts, shall be subject to the MCOD Site Plan Review process as defined in section 3.17.13, MCOD Site Plan Review.

Wireless Telecommunication Facilities, which are to be sited in all other permitted locations, shall be subject to the Site Plan Review process as defined in section 3.18, Site Plan Review.

3.25.5.4.1 General

1. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
2. Applicant must demonstrate the following to the satisfaction of the Permit Granting Authority:

   (a) That existing structures or towers cannot accommodate the Wireless Transceiver Antenna Array and associated equipment for the proposed project.
   (b) The location of the Wireless Transceiver Tower Structure is necessary and that the size and height of the tower structure is the minimum necessary for the purpose.

3.25.5.4.2 Required Documents

Pursuant to the site plan review process, the applicant shall also provide the following documents:

(a) A site plan showing:

   i. A locus plan prepared and certified by a professional engineer depicting all property lines, the exact location and dimension of all components of the proposed facility including all structures, streets, landscape features, including contours, residential dwellings and all buildings within 500 feet of the proposed facility;
   ii. A narrative description of the proposed facility including the location and identification of all components together with a statement describing the purpose of each component and its intended function plus photographs or other graphic illustrations fairly depicting the physical appearance of the proposed components;
   iii. An itemized description of other wireless telecommunications facilities owned and/or operated by the applicant or for which the applicant is currently seeking approval and which are either located in the Town of Athol or within a two mile radius of the Town of Athol or which are capable of providing service to customers operating within the Town of Athol;
   iv. A description of all federal, state and local licenses, permits, or other approvals obtained by the applicant to date or to be obtained by the applicant prior to construction of the proposed facility;
   v. A statement as to whether an Environmental Assessment (EA), a Draft Environmental Impact Statement (DEIS) or Environmental Impact Statement (EIS) is or will be required under the National Environmental Protection Act or the National Historic Preservation Act, and if so, a copy of the said EA, DEIS, or EIS;

vi. A description in both geographical and radio frequency terms of the scope and quality of the service currently being provided to the Town of Athol by the applicant's existing facilities, if any;

vii. a description in both geographical and radio frequency terms as to the need to be addressed by the proposed facility;

viii. a description in both geographical and radio frequency terms as to precisely the manner in which the proposed facility addresses the needs identified in subsection vii above;

ix. A statement describing the current state of technology available to provide wireless telecommunications services, and whether any such technology is available and feasible for the purpose of addressing the proposed need described in subsection vii above. A statement as to whether the applicant considered any alternatives to a free-standing facility including but not limited to co-locating on an existing facility and, if so, the reason(s) such alternatives are not being proposed;

x. a statement as to why there exists no feasible alternative to a free-standing facility to address the need identified by the applicant in subsection vii above;

xi. A statement as to whether the need identified in subsection vii above may be adequately met by siting a facility on other property;

xii. A description of the radio frequency testing procedures conducted by the applicant in connection with the proposed facility, if any, and the results thereof;

xiii. A statement as to whether the proposed facility will have any impact on an environmentally, historically or archaeologically significant area in the vicinity of the proposed facility;

xiv. A statement setting forth the applicant's projected future needs for wireless telecommunication facilities within the Town of Athol;

xv. A description of the terms of any co-location agreements between the applicant and any other provider of wireless telecommunication services to the Town of Athol and whether the applicant is seeking approval of co-location facilities on the proposed free standing facility, and if so, a detailed description in compliance with the preceding sub-sections of all components of the co-location facility for which the applicant is seeking approval.

xvi. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;

xvii. Any existing overhead utility lines;

xviii. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the Wireless Telecommunication Facility tower foundation, of 1.2 times the height of the proposed tower;

xix. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;

xx. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;

xxi. Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;

xxii. One or three line electrical diagram detailing the Wireless Telecommunication Facility, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;

xxiii. Documentation of the Wireless Telecommunication Facility's manufacturer and model, tower height, tower type (freestanding or guyed), and foundation type/dimensions;

xxiv. Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;

xxv. The name, contact information and signature of any agents representing the applicant; and

xxvi. A maintenance plan for the Wireless Telecommunication Facility;

(b) Documentation of actual or prospective access and control of the project site (see also Section 3.25.7);

(c) Photographic representation from a suitable number of locations of a balloon or crane test, or such other reasonable equivalent, of the height of the proposed free standing facility, so as to depict the visual impact of the proposed facility on the Town, the neighborhood and the abutters to the site.

(d) An operation and maintenance plan (see also Section 3.25.8);

(e) Proof of liability insurance, in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility;

(f) Certification of height approval from the Federal Aviation Administration;

(g) Description of financial surety that satisfies Section 3.25.13.3.

The Permit Granting Authority may waive documentary requirements as it deems appropriate.

3.25.6 Criteria for attaching a Wireless Transceiver Antenna Array or Repeater to existing structures are as follows:

(a) Attaching a Wireless Transceiver Antenna Array or Repeater to any existing public utility transmission towers or poles, or newly installed poles if adjacent to existing public utility transmission poles, shall be permitted if the height of the Wireless Transceiver Antenna Array or Repeater is not over ten (10) feet in height above the utility transmission tower or pole. If the Wireless Transceiver Antenna Array or Repeater exceeds ten (10) feet in height, the applicant must provide the Permit Granting Authority technical justification for the additional height. The Permit Granting Authority may grant the additional height if they determine that it does not have an undue visual impact on the scenic character or appearance of the area.

(b) Installation of the Wireless Transceiver Antenna Array or Repeater and associated equipment inside an existing structure and is not visible from the street shall be permitted.

(c) Installation of the Wireless Transceiver Antenna Array or Repeater on the exterior of an existing structure shall be permitted if the array or repeater is less than ten (10) feet in height above the roofline. If the exterior installation of a Wireless Transceiver Antenna Array or Repeater exceeds ten (10) feet in height above the roofline of the existing structure, the applicant must provide the Permit Granting Authority technical justification for the additional height. The Permit Granting Authority may grant the additional height if they determine that it does not have an undue visual impact on the scenic character or appearance of the area.

(d) Installation of the Wireless Transceiver Antenna Array or Repeater and associated equipment on a pre-existing HAM Operator Tower shall be permitted.

3.25.7 Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed **Wireless Telecommunication Facility**. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

3.25.8 Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the Wireless Telecommunication Facility.

3.25.9 Design Standards

3.25.9.1 Appearance, Color and Finish

Color and appearance shall comply with Federal Aviation Administration (FAA) safety requirements.

3.25.9.2 Lighting

Wireless Telecommunication Facility towers shall be lighted only if required by the FAA. Lighting of other parts of the Wireless Telecommunication Facility, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Except as required by the FAA, lighting of the Wireless Telecommunication Facility towers shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3.25.9.3 Signage

Signs on Wireless Telecommunication Facilities shall comply with Section 3.9, Sign Regulations. The following signs shall be required:

(a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warnings of any danger.

Wireless Telecommunication Facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the facility.

3.25.9.4 Height

The height of the tower structure, antennas and all related facilities shall not exceed the lesser of 90 feet above the average height of the tree line within 200 feet from the base of the tower, or 170 feet total tower height. However, additional height may be approved upon finding by the Permit Granting Authority that the additional height is required in order to provide adequate coverage or to eliminate the need for other towers in the Town. The additional height must not have an undue visual impact on the scenic character or appearance of the area.

3.25.9.5 Utility Connections

Reasonable efforts, as determined by the Permit Granting Authority, shall be made to place all utility connections from the Wireless Telecommunication Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3.25.9.6 Appurtenant Structures

All appurtenant structures to Wireless Telecommunication Facilities shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage systems, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

3.25.10 Safety and Environmental Standards

3.25.10.1 Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments, and/or the local emergency services entity designated by the local government. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

3.25.10.2 Unauthorized Access

Wireless Telecommunication Facilities shall be designed to prevent unauthorized access. For instance, the towers shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.

3.25.10.3 Setbacks

Wireless Telecommunication Facility towers may not be sited within:

(d) a distance equal to the height of the tower from buildings, critical infrastructure, or private or public ways that are not part of the Wireless Telecommunication Facility;
(e) one point five times (1.5x) the height of the tower from the nearest existing residential structure; and,
(f) one point one times (1.1x) the height of the tower from the nearest property line.

3.25.10.4 Setback Waiver

The Permit Granting Authority may reduce the minimum setback distance as appropriate based on project and site-specific considerations, such as tower type, topography, tree cover, etc., to allow for consideration

of factors that may mitigate the impact to abutters, e.g. topography, tree cover, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a building permit under the provisions of this section.

Notably, with respect to Section 3.25.10.3 (a), if a Wireless Telecommunication Facility tower is proposed as part of an integrated, multiple-use industrial commercial development, then the Permit Granting Authority may allow setbacks less than the height of the tower from buildings, critical infrastructure and/or private ways that are part of the proposed development.

3.25.10.5 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Wireless Telecommunication Facility or otherwise prescribed by applicable laws, regulations, and bylaws. Wireless Telecommunication Facility design shall minimize fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wireless Telecommunication Facilities also shall be located in a manner that does not have significant negative impacts on rare species in the vicinity.

3.25.10.6 Hazardous Materials

No hazardous materials or waste shall be discharged on the site of any Wireless Telecommunication Facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site is required.

3.25.11 Monitoring and Maintenance

3.25.11.1 Wireless Telecommunication Facility Conditions

The applicant shall maintain the Wireless Telecommunication Facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the Wireless Telecommunication Facility and any access road(s), unless accepted as a public way.

3.25.11.2 Reporting

Notice shall be provided to the town of any change in ownership of the Wireless Telecommunication Facility.

3.25.11.3 Modifications

All material modifications to a Wireless Telecommunication Facility made after issuance of the required building permit shall require approval by the Permit Granting Authority.

3.25.12 Provision of Independent Consultants

Upon submission of an Application for any Permit under this bylaw, the Applicant shall pay a review fee determined by the Permit Granting Authority, in accordance with MGL c.44 §53G consisting of reasonable costs to be incurred by the Permit Granting Authority for the employment of independent consultants. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields:

(a) Telecommunications engineering,
(b) Structural engineering,
(c) Monitoring of electromagnetic fields, and, if determined necessary by the Permit Granting Authority.

3.25.13 Abandonment or Decommissioning

3.25.13.1 Removal Requirements

Any Wireless Telecommunication Facility which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the facility no more than 90 days after the date of discontinued operations. The applicant shall notify the town building inspector by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

(d) Physical removal of all towers, structures, equipment, security barriers and electrical lines from the site.
(e) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(f) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Permit Granting Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.25.13.2 Abandonment

Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the Wireless Telecommunication Facility shall be considered abandoned when the facility fails to operate for more than six months without the written consent of the building inspector. If the applicant fails to remove the facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the facility.

3.25.13.3 Financial Surety

The applicant shall provide a form of surety, either through an escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the Wireless Telecommunication Facility and remediate the landscape, in an amount and form determined to be reasonable by the Permit Granting Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Permit Granting Authority. Such surety shall be held by the Town Treasurer and have either an automatic renewal date clause or no expiration date. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

3.25.14 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

(Adopted at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)

ARTICLE IV - DEFINITIONS

4.1 Definitions. In this Bylaw, the following terms, unless a contrary meaning is required by the context, or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged or designed to be used or occupied”. The word “person” includes a corporation, as well as an individual.

Accessory Building. A subordinate building located on the same lot with the principal building or use, the use of which is customarily incidental to that of the main building, or to the use of the land. An accessory building to

scientific research development or related production does not have to be located on the same lot as the principle building or use.

Accessory Dwelling Unit: An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling as an Interior Unit or as part of an Attached or Detached Building that is clearly a subordinate part of the single-family dwelling and complies with the criteria in Section 3.14.3 & 3.14.4. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Accessory Use. A use customarily incidental to that of the principal building or use of the land, and located on the same lot as such principal building or use. An accessory use of scientific research, development or related production does not have to be located on the same lot as the principal building or use.

Alterations. As applied to a building or structure, a change or re-arrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Airport. Facility for use by and the service of small private craft, including the incidental sale, storage and repair of such craft.

Animal Kennel. "Kennel", MGL Ch. 140, Sec. 136A, one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained. Amendment effective May 4, 1987.

Area, Building. The total of areas on a horizontal plane at the largest floor level of the principal building, and all accessory buildings exclusive of uncovering porches, terraces and steps.

Area, Net Site. The total area within the property lines excluding external streets.

Assisted Living Facilities/Residences/Communities A facility, residence or community, certified by the Massachusetts Executive Office of Elder Affairs, which provides supervision or assistance to senior citizens with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety and well-being. (*Amended at the June 11, 2012 Annual Town Meeting. Approved by the Attorney General on September 24, 2012.)*

Basement. A story partly underground but having at least one-half of its clear height above the average level of the adjoining ground.

Boarding House. Any dwelling in which more than three persons not members of the family residing on the premises, either individually or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.

Boathouse, Private. Facility for storage of boats for private use and not for hire.

Boathouse, Public. A structure for the storage of boats for remuneration or hire, but not including boat or fuel sales or major boat repairs.

Building. An enclosed structure, either a principal building or shed, garage, stable, greenhouse, or other accessory building.

Building, Attached: A building having any portion of one or more walls in contact with an adjacent building. *(Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Building Coverage. That percentage which the building area is of the net site area.

Building, Detached. A building completely surrounded by open space on the same lot.

Building, Front Line of. The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or not, but does not include steps.

Building Height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge, for gable, hip and gambrel roofs.

Building, Principal. A building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk Storage. Exposed outside storage of sand, lumber, coal, or other bulk materials, and bulk storage of liquids in tanks except underground as an accessory use.

Business Offices. Facility for the transaction of business exclusive of the receipt, retail sale, or processing of merchandise.

Camper. A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. Includes devices commonly called travel trailers, pick-up campers, motorized campers, and tent trailers.

Camping, Commercial. Premises used for campers, tenting, or temporary overnight facilities of any kind where a fee is charged.

Camping, Supervised. Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and / or athletic program, with persons enrolled for periods of not less than one week.

Cellar. A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground.

Cemetery. Premises for the cremation and / or burial of the dead; including private burial plots but not including embalming facilities.

Club. Premises or buildings of a non-profit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs or sportsmen's club as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried on as a business.

Contractor's Yard. Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Day Care Center. A facility operated on a regular basis, whether publicly or privately sponsored and however named, which provides for the non-residential care of children not exceeding 12 years of age during part or all of the day by someone other than members of the child's own family. (Amendment effective May 4, 1992)

Dwelling. A building designed or used exclusively as the living quarters for one or more families.

Dwelling Conversion. Change in construction or occupancy of a dwelling to accommodate families in addition to the number for which it was designed at the time of adoption of this Bylaw.

Dwelling, Mobile. A movable living unit designed for year round occupancy, sometimes termed a trailer home, whether on wheels or on rigid supports.

Dwelling, Multi-family. A structure occupied by three or more families living independently of each other.

Dwelling, Single-family. A detached building occupied by a single family and having no party wall, or walls in common with an adjacent structure.

Dwelling, Two-family. A detached building designed for two families.

Earth Removal. Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction, exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved Definitive Plan.

Erect. To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building. To excavate, fill, drain, and the like preparation for building shall also be considered to erect.

Family. Any number of individuals living and cooking together on the premises as a single housekeeping unit.

Floor Area of a Building. The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellars but including the area of basements, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Floor Area Ratio. The ratio of the floor area of a building or buildings on one lot to the total area of the lot.

Funeral Home. Facility for the conduct of funerals and related activities such as embalming.

Game Preserve. Premises used for hunting for free.

Golf Course. An unlighted area of at least thirty acres, with nine or more standard holes and customary accessory buildings.

Guest House, Commercial. A dwelling of single-family character in which not more than four individual rooms are offered for rent, for the primary purpose of furnishing overnight lodging to tourists.

Guest House, Private. A detached or semi-detached building located upon the same lot with a one-family dwelling containing not more than 250 square feet and not containing cooking facilities, the use of said building being limited to the entertainment of relatives and friends without fee or other costs.

Home Occupation. An occupation or a profession which:

a. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
b. is carried on by a member of the family residing in the dwelling unit and
c. is clearly incidental to the use of the dwelling unit for residential purposes.

Hospital. Facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health.

Hotel. Premises used as individual sleeping or dwelling units without kitchens, with primary access to each unit through enclosed corridors.

Industrial Building. An enclosed structure whose original purpose was for manufacturing or storage.

Industry, Light. Fabrication, assembly, finishing, packaging, processing, or research such that the following criteria are met:

a. no noise, vibration or flashing is normally perceptible above street noise without instruments at any point more than 350 feet from the premises.

b. smoke density does not exceed #2 of the Ringelmann scale for more than 10% of the time, and at no time exceeds #3 on that scale.

c. all cinders, dust, fumes, gases, odors and electromagnetic interference are effectively confined to the premises.

Industry, General. Industry operated such that the criteria for light industry are not met.

Interior Unit: An Accessory Dwelling Unit that is developed as part of the floor plan of a single family dwelling as it existed prior to Oct. 16, 2006. For single family units that are developed after Oct. 16, 2006, the applicable floor

plan will be as it is originally permitted and shall not include any later additions thereto. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Junk. Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk. Unregistered inoperative automobiles stored outdoors for more than six months shall be considered junk.

Junk Yard. The use of any area of any lot, whether inside or outside a building, for the storage, keeping, or abandonment of junk, or scrap or discarded materials, or the dismantling, demolition or abandonment of automobile (s) or other vehicle (s) or machinery or parts thereof.

Landscaped Open Space. Unoccupied space open to the sky on the same lot with a building, free of all structures, parking, pavement or other uses that preclude landscaping, maintained with grass or other plant material.

Lot. A continuous parcel of land meeting the minimum lot requirements of this By-Law for the district in which such land is situated, and if occupied by a building or buildings meeting the minimum yard requirements of that district, and having the required frontage on a street. Lot types shall include:

Corner Lot. A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

Interior Lot. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Through Lot. A lot other than a corner lot with frontage on more than one street. A reversed frontage lot is a through or corner lot buffered from a major street with access provided on the other remaining street. Through lots are double frontage lots.

Lot Frontage. That portion of a lot fronting upon a street, to be measured continuously along one street line between its side lot lines and their intersection with the street line, unless otherwise provided in the By-Law.

Lot Lines. The lines bounding a lot, including front, side, and rear.

Lot Measurements. (See Section 4.2, Lot Measurement Schedule.)

Depth. The mean distance from the front line to its opposite rear lot line measured in the general direction of the side lot lines. In the case of a corner lot, depth shall be the mean distance from the front lot line abutting the street providing access to its opposite side lot line measured in the general direction of the other front and side lot lines.

Width. The mean width at the building line measured at right angles to its depth.

Lot Yards. A required open space unoccupied and unobstructed by any structure or portion of a structure, on the same lot with a main building, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations.

Front. A yard extending the full width of the lot between side lot lines across the front of a lot adjoining a street or in the case of a corner lot, between one side lot line and the parallel front lot line which is not used for lot access.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines, or in the case of a corner lot, one side lot line and the parallel front lot line, or front lot line tangent which is not used for lot access.

Side. A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of a through lot, the side yard extends from the rear line of the required front yard used for lot access to the rear line of the required front yard not used for access. In the case of a corner lot, the side yard extends from the rear line of the required front yard to the inner line of the required side yard which is

parallel to the front yard.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner line parallel with the outer side lot line.

Rear. A yard extending across the rear of the lot between side lot lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner line parallel with the rear lot line.

Major Residential Development-Any proposed residential subdivision that would create five or more lots. *(Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Mobile Home. A dwelling unit built on a chassis, containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or permanent foundation for either temporary or permanent living quarters.

Mobile Home Park. Premises which have been planned and improved for the placement of two or more mobile homes for non-transient use.

Mobile Structure. A movable structure designed for year-round occupancy used for office or other non-residential activity.

Motel. Premises used as individual sleeping or dwelling units without kitchens, with primary access from each unit directly outdoors. The building or group of buildings may be either detached or in connected units. The term "motel" includes buildings designated as tourist courts, motor lodges, cabins, and by similar appellations.

Motor Vehicle, Boat, and Farm Implement Sales or Rental. Premises with first and / or second class license for new and / or used auto sales, or for auto rentals or similar establishments for boat or farm implement sales. Includes incidental service facilities.

Motor Vehicle, Boat, and Farm Implement Light Service. Premises for the supplying of fuel, oil, lubrication, washing, and minor repair services, not to include body work, painting, or major repairs.

Motor Vehicle, Boat, and Farm Implement General Repairs. Premises for the general repair of vehicles, including light service and minor body repairs and painting, but not to include premises primarily engaged in body repairs and / or painting.

Motor Vehicle, Boat and Farm Implement Body Repairs. Premises principally used for body repairs and / or painting.

Motor Vehicle, Boat and Farm Implement Used Parts and Dismantling. Premises used for the storage, dismantling, collection, and / or sale of parts from inoperative vehicles.

Municipal Use. Premises used for any operation by the town government, except as elsewhere more specifically defined.

Non-Conforming Use of Land or Building. A building or use of land or building lawfully existing at the time of adoption of this By-Law that does not conform to the regulations of the district in which it is situated.

Nursery or Greenhouse. Commercial premises used for the propagation of trees, shrubs, vines, flowers, or other plants for transplanting, stock for grafting, or for cut flowers.

Nursery or Greenhouse, Private. An accessory use whose products are not for sale at either retail or wholesale.

Nursing, Convalescent, or Rest Home. Premises for the care of three or more person, as licensed by the Massachusetts Department of Public Health.

Occupancy Permit. A permit issued by the issuing authority authorizing the occupancy and the use of land and / or

structures and buildings.

Outdoor Adult Motion Picture Theatre. An open air theatre presenting material as an "adult motion picture theatre", defined in General Laws, Chapter 40A, Section 9A.

Parking, Accessory. Parking on the same lot as the principal use to service that use only, not including parking for more than one commercial vehicle, for vehicles of over two-ton load capacity, or of more than one vehicle for fee.

Parking, Business. Parking for the use of employees, customers, or visitors of any non-residential activity, located either on the same lot as the activity it serves, or within 500 feet of such activity, and including the parking of up to three commercial vehicles.

Parking, Public. Parking of non-commercial vehicles for fee, whether enclosed or not.

Parties In Interest: The applicant, abutters, owners of land directly opposite on any private or public street or way; and abutters to the abutters within 300 feet of the property line of the applicant 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 and the planning board of every city and town abutting Athol (as defined in M.G.L. Chapter 40A, Section 11). *(Amended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007.)*

Philanthropic Institution. An endowed or charitably-supported, non-profit religious or non-sectarian activity maintained for public or semi-public use.

Porch, Covered. Part of a structure having a roof and floor either with or without enclosing walls or windows.

Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Printing. Premises used for reproduction services, including commercial printers, periodical printing, blueprinting, composition, and binding.

Public Utility. Utility licensed by the Department of Public Utilities.

Radio Transmission. Premises used for the commercial transmission of radio or television, not including studios.

Recreation, Indoor Commercial. Theater, Bowling Alley, or other commercial recreation or entertainment carried on wholly in an enclosed building.

Recreation, Municipal – Areas designated by the municipality for the recreational enjoyment of its citizens. *(Adopted at the October 17, 2005 Fall Town Meeting. Approved by the Attorney General on February 28, 2006.)*

Recreation, Outdoor Commercial. Drive-in theater, golf driving range, bathing beach, or other commercial recreation carried on in whole or in part outdoors except those activities more specifically designated elsewhere in this By-Law.

Recreation , Private. Recreation facilities accessory to and on the same lot as a principal building.

Religious Use. Premises used primarily for worship.

Residential, Accessory to Commercial-residential use that is subordinate to a commercial use and is incorporated into the same building either above or behind the commercial use. Such residential use shall be considered distinct from other residential uses such as single family, two family, or multi-family dwellings. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Restaurant, Indoor. Establishment for the sale of prepared food for consumption on the premises, either indoors or outdoors out of sight of any public way, or for consumption in the home.

Restaurant with Outdoor Service. Establishment serving food to persons outside of any building and within sight of a public way.

Retail Business. Premises used for the retail sale of goods for personal or household use, with storage or processing occupying not more than 50% of the gross floor area, and also premises used for personal, business or household services. Does not include retail businesses elsewhere defined.

Roadside Stand. A structure of a semi-permanent or temporary type from which raw produce is offered for sale to the public, the major portion of which has been grown by the owner of the land on which the stand is located, if offered for sale to the public.

School, Nursery. A facility designed to provide daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis.

School, Private. An educational facility other than a nursery school or those covered by Sec. 2 of Ch. 40A, of the General Laws.

School, Other. Educational institution which is religious, sectarian, denominational or public.

Service Area, Public Utility. An area used for bulk storage, exposed equipment, or truck parking or any indoor or outdoor facility associated with a utility that is used to regularly or periodically service machines, vehicles or other goods or equipment associated with the operation of that utility. (*Adopted at the October 16, 2006 Fall Town Meeting. Approved by the Attorney General on February 13, 2007.)*

Sign. Any device designed to inform or attract the attention of persons not on the premises on which the device is located, including play apparatus, banners, flags, pennants, insignias, and building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights, but excluding other integral architectural features other than letters, trademarks, or moving parts.

Sign, Area of. The entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. One side only of signs with faces at 180 degrees to each other shall be counted. Frames and structural members not bearing advertising matter shall not be included in computation of sign area unless those elements are internally or decoratively lighted.

Sign, Billboard. Signs and other advertising devices subject to the provisions of Sec. twenty-nine through thirty-three, inclusive, of Ch. 93, or subject to Ch. 93D, or otherwise regulated by the State Outdoor Advertising Board.

Sign, Location.

Free Standing Sign. A sign which does not use a building for structural support.

Hanging Sign. A sign which is attached perpendicular to the wall or a building or structure above or adjacent to the main entrance to the activity being identified, and which does not project more than five (5) feet from said wall.

Iconographic Sign. A three dimensional sign such as a clock, barber pole, or playground apparatus attached or not attached to a building or structure.

Sign, Type.

Sign, Permanent. Any sign, excluding billboards, which does not fall into the categories for temporary signs.

Sign, Accessory. A sign whose subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services or activities on premises.

Building Directory. A sign composed of such directory signs as may be permitted for the tenants or occupants of a building or group of buildings, or the space designated for same pending total occupancy.

Directory Sign. A sign which identifies the name of one of the tenants or occupants of a building. More than one of these signs may be combined to form a building directory.

Identification Sign. Any sign that with respect to the premises on which it is erected, advertises or indicates one or more of the following: the person or activity occupying the premises or the type of business transacted

on the premises, or the sale of letting of the premises or any part thereof, and which contains no other advertising matter.

Sign, Temporary. An identification sign which is associated with an activity of a temporary nature, or a sign which temporarily identifies an activity of a permanent nature.

Sale or Rent Sign. A sign which displays the words 'sale' or 'rent', and indicates the name of the individual business or corporate entity offering the premises for sale or rent.

Construction Sign. A sign which identifies the owner, contractor, designer and / or engineer associated with a project under construction.

Window Sale. An identification sign which is placed in the window of a building containing an activity.

Special Event Sign. Temporary sign for special events such as fairs, carnivals and holiday celebrations.

Social Day Care Service. A facility operated on a regular basis whether publicly or privately sponsored and however named which provides an individualized program of social activity for adults who require daytime supervision. Hours of operation shall be specified under a condition stipulated by the Zoning Board of Appeals, but shall not operate between the hours of 11:00 PM and 6:00 AM. Amendment effective May 1, 1991.

Sportsmen's Club. A club whose primary purposes are conservation, hunting, or fishing.

Stable, Private. An accessory building in which horses are kept for private use and not for hire, renumeration or sale.

Stable, Public. A building in which horses are kept for remuneration, hire or sale.

Street. A way which affords the principal means of access to abutting properties, provided such way is either a public way, or a way which the town clerk certifies is maintained and used as a public way, or a way shown on a plan approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control law became effective in Athol having, in the opinion of the planning board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of 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.

Street Line. The line between the lot and the street layout.

Structure. Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground, including swimming pools, but excluding walls and fences. (*Amended at the October 20, 2008 Fall Town Meeting. Approved by the Attorney General on February 9, 2009.)*

Temporary Structure. An accessory tent or construction shanty to be used for less than one year.

Transportation Terminal. Premises for the parking and / or servicing of more than three commercial vehicles, or any number of vehicles of over two-ton load capacity.

Uses. The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "Permitted Use" or its equivalent shall not be deemed to include any non-conforming use.

Warehouse. Indoor storage of goods for distribution, but not for sale on the premises.

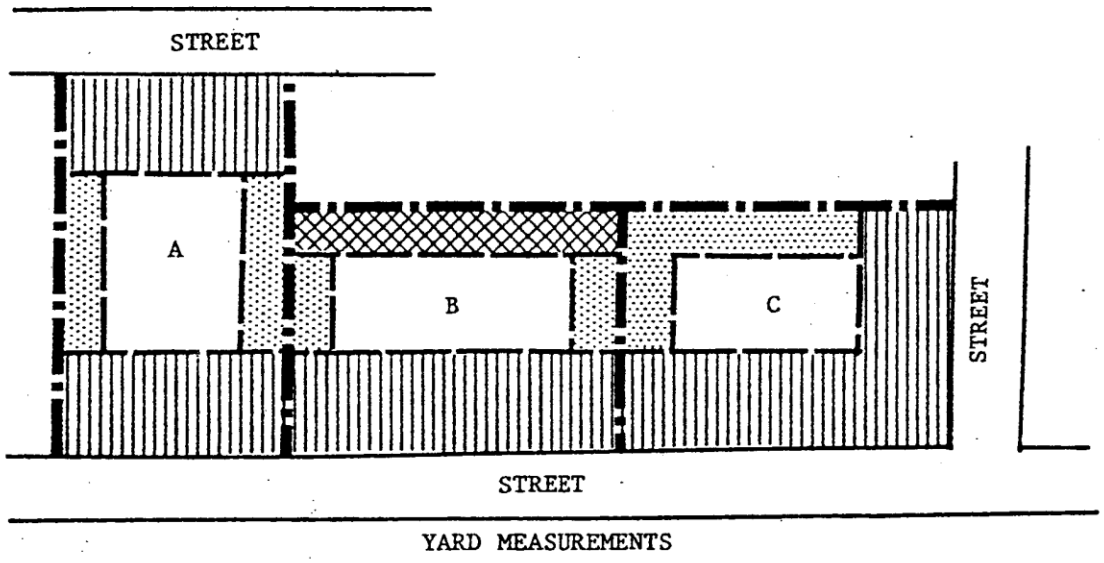
Wholesaling. Sale of commodities in quantity for resale or further processing.

Zoning Permits. Permits issued for use on any lot and/or parcel of land in the Town of Athol.

4.2 LOT MEASUREMENT SCHEDULE

The diagram below illustrates the location and method of measuring dimensional requirements for the following three lot types:

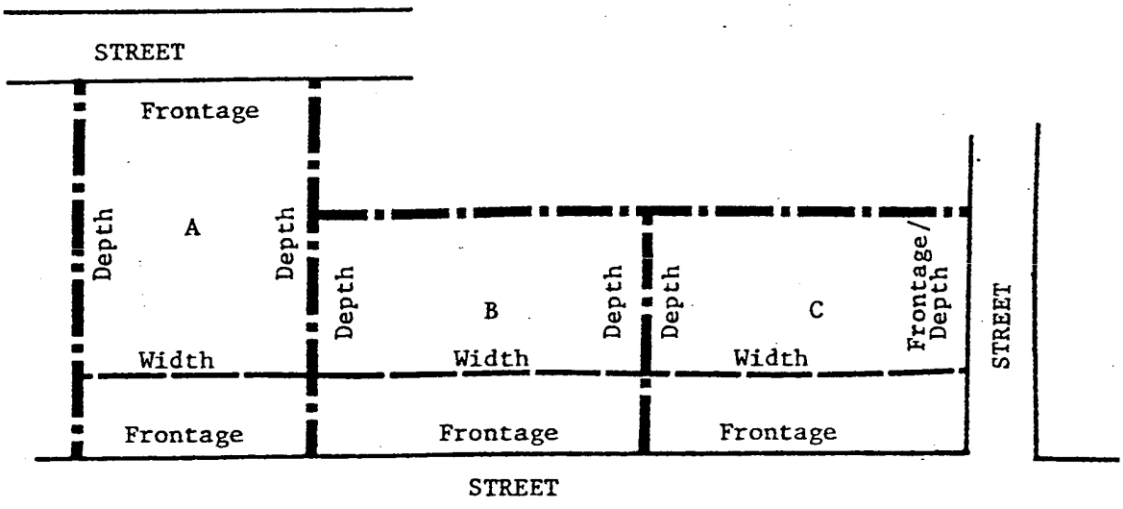
A. Through or reverse frontage lot.
B. Interior lot.
C. Corner lot.



YARD MEASUREMENTS

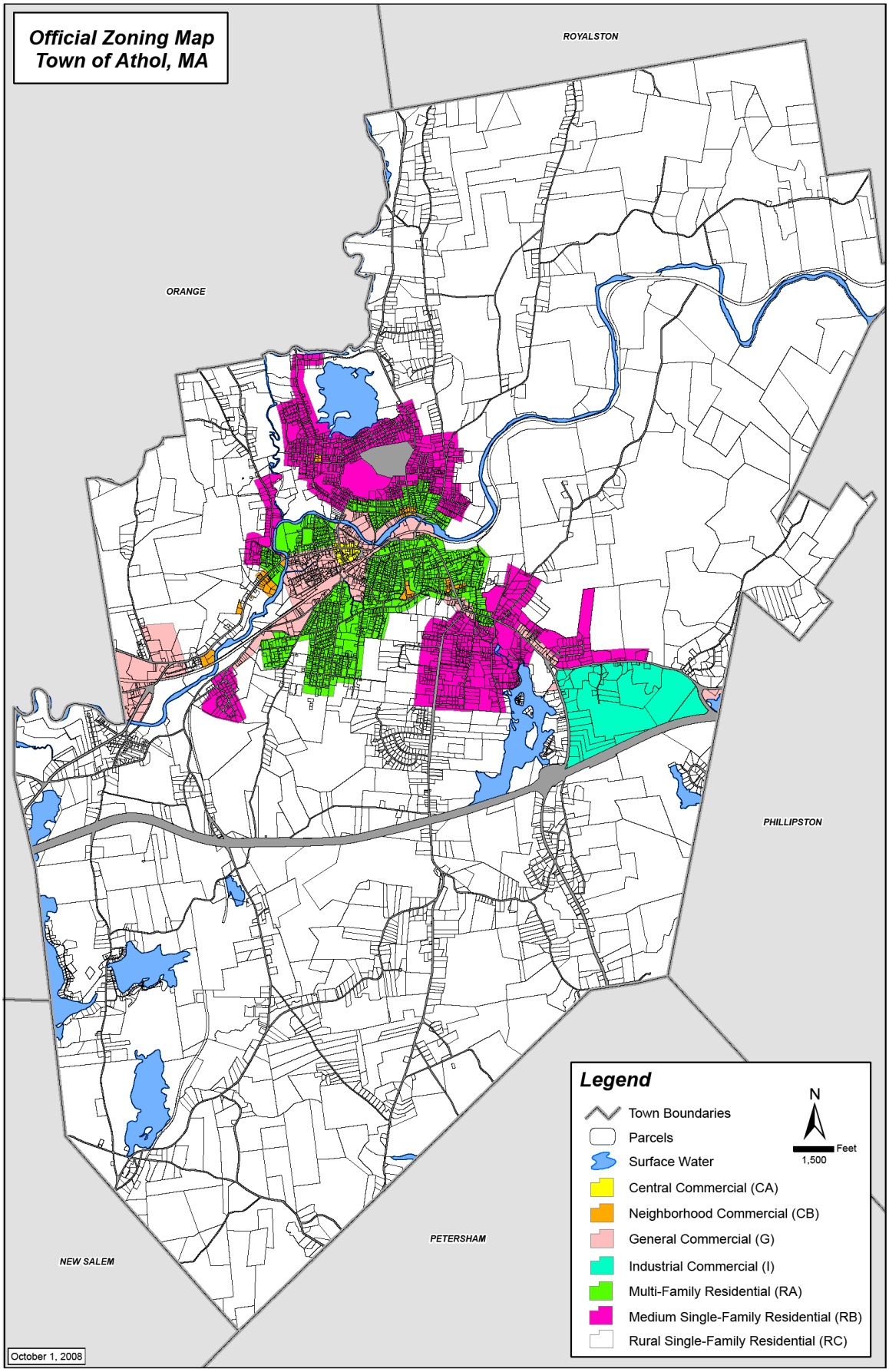
LEGEND:

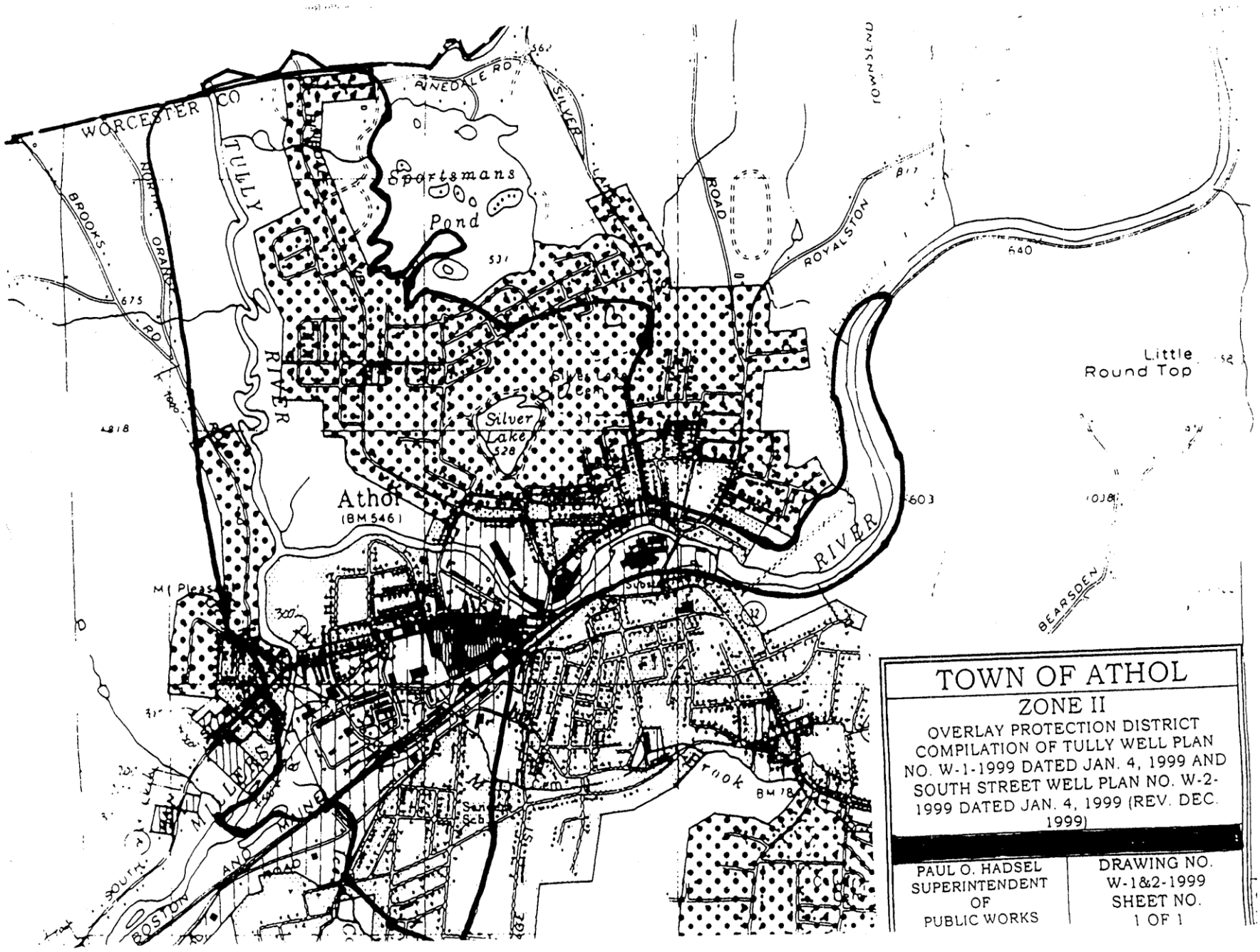
Street Line
Lot Lines
Yard Line
Front Yard
Rear Yard
Side Yard



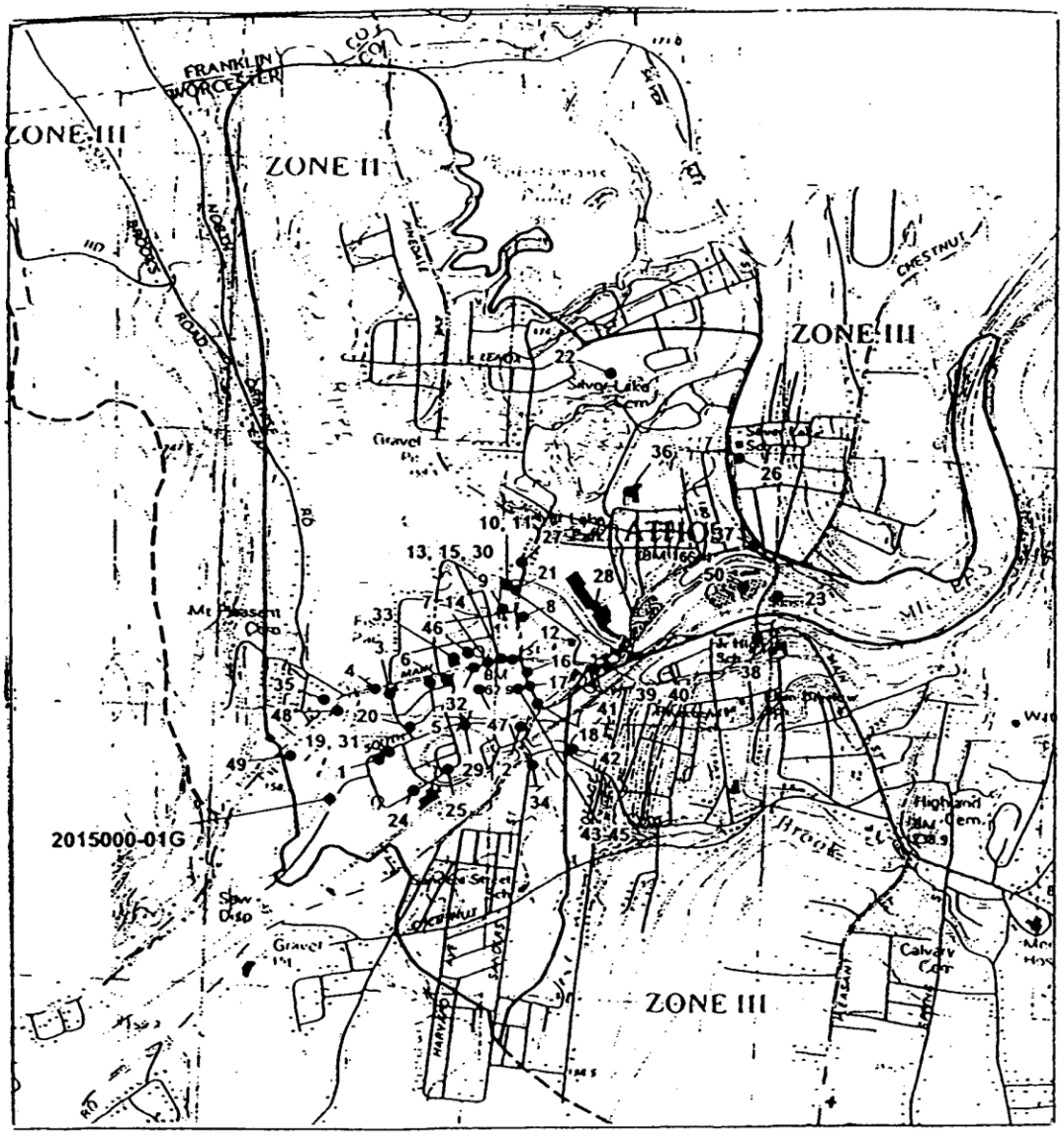
DIMENSIONAL MEASUREMENTS

Street Line/ Frontage
Lot Lines/Depth
Width


Official Zoning Map
Town of Athol, MA
ROYALSTON
ORANGE
PHILLIPSTON
PETERSHAM
NEW SALEM
Legend
Town Boundaries
Parcels
Surface Water
Central Commercial (CA)
Neighborhood Commercial (CB)
General Commercial (G)
Industrial Commercial (I)
Multi-Family Residential (RA)
Medium Single-Family Residential (RB)
Rural Single-Family Residential (RC)
N
Feet
1,500
October 1, 2008


TOWN OF ATHOL
ZONE II
OVERLAY PROTECTION DISTRICT
COMPILATION OF TULLY WELL PLAN
NO. W-1-1999 DATED JAN. 4, 1999 AND
SOUTH STREET WELL PLAN NO. W-2-
1999 DATED JAN. 4, 1999 (REV. DEC.
1999)
PAUL O. HADSEL
SUPERINTENDENT
OF
PUBLIC WORKS
DRAWING NO.
W-1&2-1999
SHEET NO.
1 OF 1
WORCESTER CO
TULLY
RIVER
Sportsmans
Pond
Silver
Lake
Athol
(BM 546)
RINEDALE RD
SILVER
ROAD
ROYALSTON
TOWNSEND
BROOKS
NORTH ORANGE RD
Little
Round Top
BEARSDEN
RIVER
BOSTON
SOUTH
AND
MAINE
ROAD
Creek
BM 78

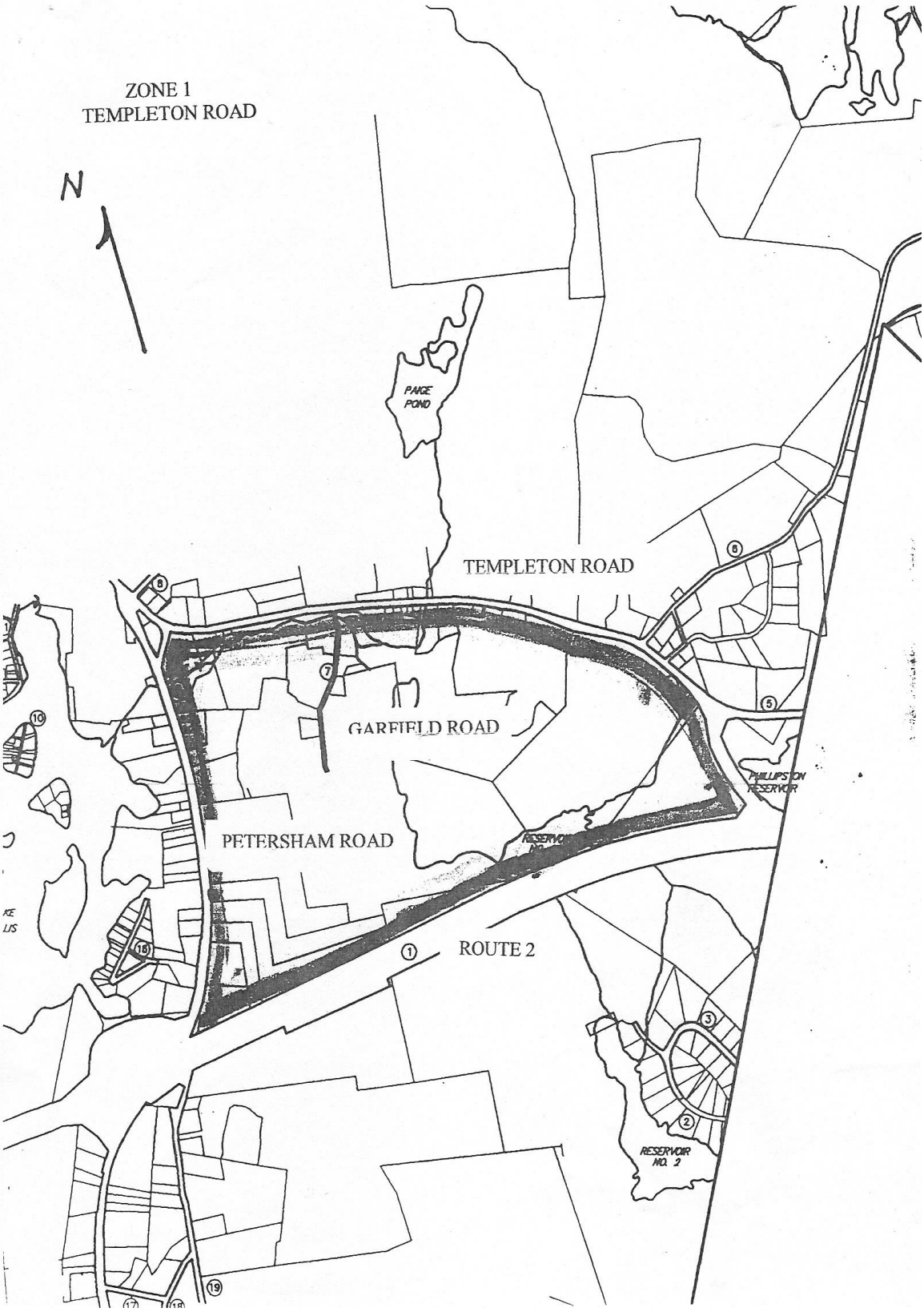
TOWN OF ATHOL	
TULLY BROOK WELLS ZONE II OVERLAY PROTECTION DISTRICT	
SCALE: 1:25,000	
PAUL O. HADSEL SUPERINTENDENT OF PUBLIC WORKS	DRAWING NO. W-1-1999 SHEET NO. 1 OF 1



(REV DEC. 1999)

TOWN OF ATHOL	
SOUTH STREET WELL ZONE II OVERLAY PROTECTION DISTRICT	
SCALE: 1:25,000	
PAUL O. HADSEL SUPERINTENDENT OF PUBLIC WORKS	DRAWING NO. W-2-1999 SHEET NO. 1 OF 1

INDUSTRIAL COMMERCIAL DISTRICT



Industrial Commercial District: Voted that the town change a use of an area as shown on the Athol Zoning Map for Industrial to Industrial Commercial and such area shall include from the intersection of Templeton Road and Petersham Road (Route 32) east 6,382' along Templeton Road to the westbound on ramp of Route 2; then west 4,923' along Route 2 to Petersham Road; then north 4,278' along Petersham Road to Templeton Road to the point of beginning. *(Amended at the February 26, 2007 Special Town Meeting. Approved by the Attorney General on April 3, 2007.)*

A True Copy, Attest:

Nancy E. Burnham
Town Clerk