



Town of Burlington  
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Post 10/12/10 – 10/26/10

Pct. 1 Fox Hill School  
Pct. 2 Sammy's Superette  
Pct. 3 Town Hall  
Pct. 4 Francis Wyman School  
Pct. 5 Fire Dept.  
Pct. 6 Pine Glen School

## LEGAL NOTICE

The following bylaw under Articles 19, 20, 21 of the January 25, 2010 TM was approved by the Attorney General on October 4, 2010. Any claims of invalidity by reason of any defect in the procedure of adoption or amendment may be made no later than January 23, 2011.

Copies of these bylaws may be examined/obtained at the Town Clerk's Office.

Attest:

Jane L. Chew  
Town Clerk

ARTICLE 19 RE: Amend Zoning Bylaw Articles II and IV Massage Therapy

To see if the Town will vote to amend Article II DEFINITIONS of the Zoning Bylaw, by amending section 2.50.1 Massage Therapy, by striking the words “Burlington Board of Health” and substituting therefore the words “Commonwealth of Massachusetts”, as follows:

The act of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding, or the like by manual or mechanical means, or as directed by the practitioner, for the purpose of invigorating, relaxing, or increasing physical and/or emotional well-being. Massage Therapy shall be accessory to an athletic club, health club, school, gymnasium, reducing salon, spa, medical office, or similar establishment, and may only be administered by a medical practitioner, chiropractor, massage therapist, acupuncturist, physical therapist, or similar professional person licensed, certified, or exempted by the ~~Burlington Board of Health~~ **Commonwealth of Massachusetts**.

**AND** further to amend Article IV USE REGULATIONS, Section 4.2.0 Principal Use Regulation Schedule, Section 4.2.6.20.1 “Massage Therapy, subject to the regulations of the Board of Health”, by striking the words “subject to the regulations of the Board of Health”, as follows:

Massage Therapy, ~~subject to the regulations of the Board of Health~~;

**MAIN MOTION:** As printed in the Warrant

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION**

ARTICLE 20 RE: Amend Zoning Bylaw Article VII, Section 7.4.0/Landscaping Requirements

To see if the Town of Burlington will vote to amend Article VII “General Regulations”, Section 7.4.0 “General Landscaping Requirements”, of the Zoning Bylaws by adding the following new sections, highlighted in bold print, as follows:

**7.4.1 Purpose. This section is designed to accomplish the following objectives:**

- 1. Provide a suitable boundary or buffer between residential uses and nearby nonresidential uses;**
- 2. Separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;**
- 3. Provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; and**
- 4. Offer property owners protection against diminution of property values, if any, due to adjacent nonresidential use.**

**7.4.2 Applicability. The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.**

#### **7.4.4 Landscaping Requirements.**

1. Screening, in accordance with an approved site plan, shall be provided, erected and maintained to shield RO and RG districts and municipal properties from adjoining business and industrial uses of land, and to shield RO districts from adjoining apartment uses. Screening shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the screening and an agreement to complete the screening within a specified time and permit occupancy before the screening is installed.
2. Landscaping, in accordance with an approved site plan, shall be provided, erected and maintained on any part of any BN, BL, BG, BT, IH, IR, IG, or RG lot which is not occupied by a structure or by required parking areas, service areas, and driveways; except that all or part of the required landscaping may be in its clean original wooded state. Landscaping features shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the landscaping and an agreement to complete the landscaping within a specified time and permit occupancy before the landscaping is installed.
- 3. Property line(s) which also bound residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential use and multifamily dwellings. No part of any building or structure or any paved or unpaved surface intended for or used as a parking area may be located within the buffer area required by Section 5.2.0 of this Bylaw.**
- 4. Dumpsters and similar accessory receptacles over one cubic yard capacity shall be screened from all adjacent premises and streets from which such features would otherwise be visible in accordance with this Section.**
- 5. Any loading area or HVAC equipment or other electrical equipment placed on the ground level shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this Section.**
- 6. Planted areas shall contain an appropriate mix of plant species that are appropriate to the proposed use, site layout, soils, and other environmental conditions. Vegetation is preferable to mulch where practical.**
- 7. Existing trees with a diameter at breast height (DBH) of twelve inches (12") or more, shall be preserved ~~wherever feasible~~ not be removed except by prior approval of the Planning Board, and if removed, shall be replaced with a minimum 3" caliper tree, unless waived by the Planning Board.**

**7.4.5 Coordination with Site Plan Approval.** The Planning Board shall require a landscaping plan as part of an overall site plan for any premises subject to site plan review pursuant to Section 9.3.0 of this Bylaw. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

**Maintenance of Landscaped Areas.** The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the

**provisions set forth herein. All plant materials required by this Section shall be maintained in a healthful condition, or replaced as necessary, in perpetuity.**

**MAIN MOTION:** As printed in the Warrant

A motion to amend by striking the words “be preserved wherever feasible” under section 7 and substituting therefore the words “not be removed except by prior approval of the Planning Board, and if removed, shall be replaced with a minimum 3” caliper tree, unless waived by the Planning Board” was moved, seconded and so voted.

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION AS AMENDED**

ARTICLE 21 RE: Amend Zoning Bylaw Article VII, Section 7.3.0/Loading Requirements

To see if the Town will vote to amend Article VII “General Regulations”, Section 7.3.0 “General Loading Requirements and Purpose” of the Zoning Bylaws, by adding the following new sections highlighted in bold print, as follows:

### **7.3.0 LOADING REQUIREMENTS**

Loading space dimensions and locations shall be approved by the Planning Board, and loading spaces shall be so placed as not to require maneuvering within a public way or way used by the public.

**7.3.1 General. Adequate off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which is erected, enlarged or altered after the effective date of this Bylaw.**

**7.3.2 Same Lot. All loading spaces or loading areas required by this Bylaw shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this Bylaw.**

**7.3.3 No Queues or Backing onto Street. No loading facility shall be designed to require trucks to queue on a public way while awaiting off-loading. No loading facility shall be designed to require vehicles to back onto a public way; all turning maneuvers shall be accommodated on the premises.**

**7.3.4 Shared Loading. No part of an off-street loading area required by this Bylaw for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the Planning Board.**

**7.3.5 Screening. Loading areas shall be screened in accordance with Section 7.4.0 of this Bylaw.**

**Location. No loading dock or bay shall be located within a required buffer area to an adjoining residential zoning district in accordance with Section 5.2.0 of this Bylaw. The Planning Board shall have final say on the siting of any loading dock.**

**MAIN MOTION:** As printed in the Warrant

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION**