



Town of Burlington
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Burlington, MA 01803

Office of the Town Clerk

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Jane L. Chew, CMC
Town Clerk

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Post 8/28/09 – 9/11/09

**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 bylaws were approved by the Attorney General on August 21, 2009. Any claims of invalidity by reason of any defect in the procedure of adoption or amendment may be made no later than December 11, 2009.

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

**ADJOURNED TOWN MEETING
MONDAY, MAY 18, 2009
FOGELBERG AUDITORIUM – BHS**

ARTICLE 36 RE: Amend General Bylaw Article XIII/ Public Safety, Use of Streets and Public Places, Section 1.12

No person having a vehicle under his care or control shall leave the same parked or unattended upon a street between the hours of 2:00 a.m. and 8:a.m. from December 1 through April 1 in each year. **Persons violating this regulation shall be fined twenty-five dollars (\$25.00) for the first offense and fifty dollars (\$50.00) for the second or subsequent offenses.**

ARTICLE 37 RE: Amend General Bylaw Article I/General Provisions

12.0 Meeting Minutes and Agenda – all Town boards and committees whether elected or appointed shall file an electronic copy of their meeting minutes and agendas with the Town Clerk. Minutes shall be filed within 30 days of the meeting and agendas shall be filed at least 24 business hours prior to the meeting. Executive Session minutes shall be filed with the Town Clerk as soon as they have been reviewed and released for the public under the provisions of MGL Chapter 39, Section 23B and Chapter 66, Section 10 (a).

ARTICLE 39 RE: Amend Article XIII/Public Safety, Section 1.0/Use of Streets and Public Places; Sub-Section 1.35/Alcoholic Beverages

1.35.6 Substance Consumption

No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area,

boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

ARTICLE 42 RE: Amend Zoning Bylaw Article I/Purpose and Authority

SECTION 1.0 PURPOSE AND AUTHORITY

1.0.1 TITLE. The full title of these regulations shall be the "Zoning Bylaws of the Town of Burlington, Massachusetts." These regulations shall be referred to herein as the "Zoning Bylaws" or "this Bylaw".

1.0.2 PURPOSE. These regulations are enacted to promote the general welfare of the Town of Burlington, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.0.3 AUTHORITY. This Zoning Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts. The Planning Board shall be responsible for the maintenance of the official copy of this Bylaw.

1.0.4 SCOPE. For these purposes, the construction, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.0.5 APPLICABILITY. All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. 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. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

1.3.0 DEFECT IN THE FORM OF NOTICES

No defect in the form of any notice under this Bylaw shall invalidate any action taken thereunder or pursuant thereto unless such defect is found to be misleading. **When notice is required to be provided to the public, an abbreviation shall not be used without clear indication of the subject matter or specific term being abbreviated;** or to act in any other manner in relation thereto.

ARTICLE 43 RE: Amend Zoning Bylaw Article VII, Section 7.5.2/Streets, Driveways, Parking and Service Areas and Article VIII/Overlay Districts, Section 8.3.8.4/Impervious Surfaces

LOW IMPACT DEVELOPMENT DRAINAGE TECHNIQUES

Section 7.5.2 Streets, Driveways, Parking and Service Areas

In all districts except "RO" One Family Dwelling Districts, all streets, driveways, parking areas, service areas, ramps, loading docks and exterior storage areas shall be paved or surfaced with impervious materials. **In areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete, and/or permeable pavers may be used in streets, driveways and parking areas. All systems shall be designed** and constructed so that water falling on such areas will be directed into an approved system of **pipes and/or drainage structures.**

Section 8.3.8.4 Impervious Surfaces

Within the Aquifer and Water Resource Districts, not less than forty percent (40%) of the lot shall be landscaped or if wooded, may be left in a natural state. Within the Aquifer and Water Resource Districts all streets, sidewalks, parking areas, driveways, ramps, service areas, loading docks, and exterior service areas shall be paved or surfaced with impervious materials; **in areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete and/or permeable pavers may be used. All systems shall be designed** and constructed so that water

falling on such areas and on buildings on the same premises, and spilled liquid substances on such areas and in adjacent buildings, will be contained and controlled and directed into an approved system of **pipes and/or drainage structures**. Such drainage system shall trap for removal, all oil based pollutants and suspended sediment and materials and shall provide for the full recharge of stormwater and precipitation to the ground beneath the site by the use of leaching structures, pipes, and fields, **or an approved low impact development technique**. The outlet from such drainage system shall be designed to obtain the efficient operation of the leaching structures and to allow the passage of excess amounts of water so that no flooding of the site will occur. Residential lots which render impervious not more than fifteen percent (15%) or 2,500 square feet of the lot, whichever is greater, shall be exempt from this recharge and maintenance requirement. A drainage maintenance schedule shall be developed, subject to the approval of the Board of Health and the Town Engineer, which provides for the periodic inspection and maintenance of all drainage structures and systems. The property owner shall be responsible for continually implementing such drainage system maintenance.

ARTICLE 45 RE: Amend Zoning Bylaw Article IX/ Administration and Procedures, Amend Section 9.2.0 Special Permit and Section 9.3.0 Site Plan

9.2.2 Procedures.

1. Any person desiring a special permit shall submit an application to the Town Clerk, together with the required filing fee as specified in **the Planning Board's Rules and Regulations**, and twelve (12) copies of a Site Plan and/or other supporting documentation. The Town Clerk shall within three (3) days transmit the original application and four (4) copies of the plan and any supporting documentation to the Planning Board; and one (1) copy each of the application, plan, and supporting documentation to the Inspector of Buildings, the Board of Selectmen, the DPW, the Town Engineer, the Board of Health, the Conservation Commission, the Fire Chief, and the Police Chief, who shall consider the application and submit a report thereon with recommendations to the Planning Board. The Planning Board shall not make a finding and determination upon the application until it has received the reports from the Building Commissioner, the Board of Selectmen, the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days shall have elapsed without such reports being submitted and until a public hearing has been held.

Subsection 9.2.2.2

2. **The Planning Board shall adopt and from time to time amend rules and regulations relative to the issuance of such permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for a submission and approval of such permits.**

9.2.3 Public Hearing

The Planning Board shall hold a public hearing within sixty-five (65) days after the special permit application has been transmitted to the Planning Board giving notice as prescribed in **G.L. c. 40A, s. 11**.

9.2.4 Criteria for Approval

Special permits shall be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Zoning Bylaw, the determination shall include consideration of each of the following:

1. **Social, economic, or community needs which are served by the proposal;**
2. **Traffic flow and safety, including parking and loading;**
3. **Adequacy of utilities and other public services;**
4. **Neighborhood character and social structures;**
5. **Impacts on the natural environment; and**

6. Potential fiscal impact, including impact on town services, tax base, and employment.

9.2.5 Final Action

The Planning Board shall take final action on a special permit application within ninety (90) days after the public hearing has been closed. The failure to do so will constitute a favorable action by the Planning Board. Final action shall consist of (1) a written approval of the special permit, or (2) a written denial of the special permit application, stating the reasons for such approval or denial. **Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Zoning Bylaw.**

9.2.5.1 Expedited Permitting for Priority Development Sites

Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any special permit application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.

9.2.6 Implementation

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk. The Planning Board may at the time of approval or thereafter, upon application therefore, grant such extensions of time, each not longer than one (1) year, as it shall deem necessary to carry the use into effect.

SECTION 9.3.0 SITE PLAN

9.3.1 Requirements of Plan.

In all districts except RO and FP, no structure or premises shall be constructed, reconstructed, altered, or used except in conformity with a site plan, prepared by a **professional land surveyor** and registered professional engineer, and bearing an endorsement of approval by the Planning Board. Said site plan shall show, among other things, all existing and proposed buildings with ground floor plan and elevations, structures, parking spaces, driveway openings, driveways, service areas, and other open uses; all facilities for sewage, refuse and other waste disposal and for surface water drainage; and all principal landscape features, such as fences, walks, walls, signs, exterior lighting, and planting areas showing size and kind of plants to be used.

The Planning Board may in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of this section, waive strict compliance with its rules and regulations and with the requirements herein.

9.3.3 Public Hearings.

The Planning Board shall hold a public hearing within sixty-five (65) days after the site plan has been transmitted to the Planning Board, giving notice as prescribed in **G.L. c. 40A, s. 11.**

9.3.5 Final Action.

The Planning Board shall take final action on an application for site plan approval within ninety (90) days after the public hearing has been closed. The failure to do so shall constitute approval of the site plan as submitted. Final action shall consist of (1) approval of the site plan as submitted; or (2) approval of the site plan subject to conditions, modifications, and/or restrictions set forth thereon which in the opinion of the Planning Board are necessary to cause the site plan to meet the criteria for approval set forth in **herein**; or (3) denial of the application for site plan approval if in the opinion of the Planning Board the site plan fails to meet any one or more of the criteria for approval set forth in **herein**, and the applicant fails or refuses to make such amendments to the site plan as are necessary in the opinion of the Planning Board to cause the site plan to meet the criteria for approval.

9.3.5.1 Expedited Permitting for Priority Development Sites

Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any site plan application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.

9.3.7 Appeal.

The appeal of a decision of the Planning Board pursuant to this Section 9.3.0 shall be made to a court of competent jurisdiction as set forth in G.L. c. 40A, s. 17.

Attest:

Jane L. Chew
Town Clerk