

## **Division 1: Bylaws**

### **Part I: Administrative Legislation**

#### **Chapter 1**

#### **GENERAL PROVISIONS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.  
Amendments noted where applicable.]**

##### **§ 1-1. Purpose.**

The following provisions shall constitute the General Bylaws of the Town of Holland, which shall be in lieu of all bylaws heretofore in force.

##### **§ 1-2. Power to license.**

When in a bylaw anything is prohibited from being done without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to license or permit such thing to be done.

##### **§ 1-3. Manner of repeal and amendment. [Amended 10-1-1990]**

Any or all of these bylaws may be repealed or amended or other bylaws may be adopted at a Town Meeting, an article or articles for that purpose having been inserted in the warrant for such meeting by the Select Board. Any article proposing the repeal or amendment of any part of the General Bylaws or the enactment of a new bylaw shall include an appropriate chapter and section designation for any new matter and shall identify the chapter and section designation in the codified bylaws of any existing provision to be repealed or amended.

##### **§ 1-4. Violations and penalties. [Amended 6-14-1994; 1-3-1995]**

Whoever violates any provision of these bylaws or of any regulation promulgated pursuant thereto, whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine not exceeding \$150 for a first offense and \$300 for each subsequent offense within a twelve-month period.

#### **Chapter 7**

#### **BOARDS, COMMISSIONS AND COMMITTEES**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Finance Board**  
**[Adopted 2-19-1998; amended 11-20-2013]**

**§ 7-1. Establishment; membership.**

There shall be a Finance Board consisting of five legal voters of the Town, who shall be appointed by the Moderator as hereinafter provided. A quorum shall be a majority of the members serving on the Board. A member of the Finance Board shall be allowed to serve on other Town committees if said committees do not have a budget reviewed by the Finance Board.

**§ 7-2. Appointment; terms.**

The Moderator shall constitute the Board on the basis of three-year, staggered terms. These terms shall expire at the end of a fiscal year. The three-year term of office for a new or reappointed member shall commence at the start of a fiscal year, with the Moderator having determined that the individual is or remains well-qualified for the position. Said Board shall choose its own officers and shall serve without pay, and it shall cause to be kept a true record of its proceedings.

A. Associate member of Finance Board. **[Added 5-21-2019 ATM by Art. 20]**

- (1) The Finance Board Chair may appoint a Finance Board associate member for the purpose of acting on any Finance Board business requiring a quorum of three. The associate member shall be appointed annually or continue on the Board past one year until specific business requiring the quorum is complete. Should the associate Finance Board position become vacant, it shall be filled forthwith by the Finance Board for the unexpired term.
- (2) The Finance Board Chair may designate the associate member to sit on the Board in case of:
  - (a) The absence of a regular member;
  - (b) The inability of a regular member to act;
  - (c) A conflict of interest of a regular member;
  - (d) A vacancy on the Board.

**§ 7-3. Vacancy.**

The Chair of said Board shall notify the Moderator and Town Clerk, in writing, of any vacancy in its membership. In the event of a vacancy, the Moderator has the discretion to fill the vacancy with a qualified candidate as soon as possible or at a later time, if the minimum Board membership is satisfied. The term of office of any person so chosen shall be the unexpired term of the member in whose office the vacancy originally occurred. If any member is absent from five consecutive meetings of said Board, his position may, on vote of said Board, be deemed vacant and filled as provided above.<sup>1</sup>

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1. Editor's Note: Amendment pending.

**§ 7-4. Matters for consideration.**

All department budgets, transfer requests and warrant articles shall be referred by the Select Board to the Finance Board for its consideration. Said Board shall, after due consideration of the subject matter of such articles, report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interests of the Town and its citizens.

**§ 7-5. Responsibility for budget.**

It shall be the duty of the Finance Board to work with the Select Board to develop a balanced budget. In the discharge of this duty, both Boards will consider the expenditures in previous years; the budget requests for the ensuing year, submitted by the Town departments, committees and boards; any economic trends deemed necessary and information deemed relevant. The Finance Board will provide a balanced budget document to Annual Town Meeting that includes columns showing budgets approved in recent years, the requested budgets and another column providing a balanced budget which, in its opinion, should be appropriated for the coming fiscal year.

**§ 7-6. Access to financial records.**

In the discharge of its duty, the Finance Board shall have free access to all books of record and accounts, bills and vouchers on which money has been or may be paid from the Town treasury. Officers, boards, committees and the Accountant of the Town shall, upon request, attend Board meetings and furnish said Board with facts, figures and other information pertaining to their several activities.

**§ 7-7. Annual report.**

It shall be the duty of the Finance Board to make an annual report of its doings, with recommendations relative to financial matters and the conduct of Town business, to be contained in the Annual Town Report.

**§ 7-8. Budget hearing.**

It shall be the duty of the Finance Board to hold public hearing on the proposed budget no later than 15 days prior to each Annual Town Meeting.

ARTICLE II  
**Recreation Committee**  
**[Adopted 5-9-1972; amended 5-19-1993]**

**§ 7-9. Establishment; membership. [Amended 5-28-2013 ATM by Art. 22]**

The Recreation Committee shall consist of five members who shall be appointed annually by the Select Board.

**§ 7-10. Duties.**

The Recreation Committee shall oversee the operation and maintenance of Hitchcock Field and the facilities thereon located and shall promulgate rules and regulations governing access thereto and the use thereof, subject to the approval of the Select Board.

**§ 7-11. Sponsorship and administration of recreational activities.**

The Recreation Committee may sponsor organized athletic programs and similar recreational activities for the benefit of residents of the Town to be conducted on Hitchcock Field or, with the permission of the School Committee, in the Elementary School gymnasium, or in other appropriate locations. It may designate persons to direct and assist in administration of such programs as it deems appropriate and may invite persons so designated to take part in the Committee's deliberations and decisions on condition that they attend regularly scheduled Committee meetings

**§ 7-12. Authority to accept contributions.**

The Recreation Committee is authorized to accept, on behalf of the Town, contributions of money, equipment, materials and services for the operation and maintenance of Hitchcock Field and its facilities and for the support of programs sponsored by the Committee.

**§ 7-13. Revolving fund.**

The Town hereby accepts the provisions of MGL c. 44, § 53D, pursuant to which the Town hereby establishes in the Town treasury a revolving fund to be kept separate by the Treasurer from all other moneys, in which will be deposited all moneys received by the Recreation Committee in connection with the operation and maintenance of Hitchcock Field or in connection with athletic or other recreational programs sponsored by it. The principal and interest thereon shall be expended at the direction of the Recreation Committee without further appropriation but only with the written approval of the Select Board. Said fund shall be managed in conformity with the provisions of MGL c. 44, § 53D.

ARTICLE III  
**Board of Health**  
**[Adopted 6-15-1970]**

**§ 7-14. Membership; term.**

The Board of Health shall consist of three members. At the Annual Meeting in 1971, one member shall be elected for one year, one member for two years, and one member for three years; and thereafter, one member shall be elected for a three-year term.

**§ 7-15. Election of officers. [Amended 5-19-1993]**

The Board of Health shall annually elect one of its members to serve as Chair and one to serve as Clerk.

**§ 7-16. Enforcement; violations and penalties. [Amended 5-19-1993; 6-14-1994<sup>2</sup>]**

The Board of Health is authorized to enforce the provisions of MGL c. 270, § 16, regarding the disposal of rubbish and other materials in unlawful places by civil infraction procedure pursuant to MGL c. 277, § 70C. In the event of noncriminal disposition under MGL c. 40, § 21D, it is authorized to impose a civil assessment of \$150 for any violation of such provisions.

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**2. Editor's Note: Amendment pending.**

## ARTICLE IV

**Planning Board****[Adopted 1-6-1970; amended 9-24-1992; 1-3-1995; 4-19-2011]****§ 7-17. Membership; terms of office.<sup>3</sup>**

The Planning Board shall consist of five elected members. At the Annual Town Election of 1970, one member shall be elected for a one-year term, one member elected for a two-year term, one member elected for a three-year term, one member elected for a four-year term, and one member elected for a five-year term; and thereafter, one member shall be elected annually at the Town Election for a five-year term.

**§ 7-18. Associate member of Planning Board.**

- A. The Planning Board Chair may appoint a Planning Board associate member for the purpose of acting on any Planning Board business requiring a supermajority of four. The associate member shall be appointed annually or continue on the Board past one year until specific business requiring the supermajority is completed. Should the associate Planning Board position become vacant, it shall be filled forthwith by the Planning Board for the unexpired term.<sup>4</sup>
- B. The Planning Board Chair may designate the associate member to sit on the Board in case of:
  - (1) The absence of a regular member;
  - (2) The inability of a regular member to act;
  - (3) A conflict of interest of a regular member; or
  - (4) A vacancy on the Board.

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3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending.

## ARTICLE V

**Council on Aging****[Adopted 2-9-1976; amended 6-14-1994; 1-27-1999; 5-11-2011]****§ 7-19. Establishment; membership; terms of office.**

Council on Aging is hereby established in accordance with MGL c. 40, § 8B, as amended. The Council shall consist of seven residents and one alternate resident to be appointed annually by the Select Board. Starting on July 1, 1999, four members will serve a one-year term and three members will serve two-year terms; in the year 2000 and thereafter, new members will serve two-year terms.

ARTICLE VI  
**Bylaw Committee**  
**[Adopted 6-14-1994]**

**§ 7-20. Establishment; membership; appointment.**

There shall be a Bylaw Committee of three, consisting of a Chair to be appointed annually by the Select Board; the Town Clerk, who shall serve ex officio, and a member of the Planning Board to be appointed by that Board.

**§ 7-21. Duties.<sup>5</sup>**

The Bylaw Committee shall regularly review the Town's General and Zoning Bylaw<sup>6</sup> and ensure that the official text of all bylaws in effect, including most recent amendments, is always available for inspection and copying during regular business hours at the offices of the Town Clerk and of the Town Administrator.

**§ 7-22. Review of warrant articles.**

Any Town Meeting warrant article proposing the repeal or amendment of any existing General Bylaw, or the enactment of a new General Bylaw, shall be reviewed as to form by the Bylaw Committee to ensure compliance with Chapter 1, § 1-3, hereof and avoid inconsistency with existing bylaws.

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5. Editor's Note: Amendment pending.

6. Editor's Note: See Ch. 240, Zoning.



ARTICLE VII  
**Park Commission**  
**[Adopted 5-9-1997]**

**§ 7-23. Election of Commission; duties and powers.**

The Town of Holland is authorized to elect, under the provisions of Massachusetts General Laws Chapter 45, a Park Commission whose duties and powers shall be to oversee the maintenance and operation of a park on land leased by the Town from the United States of America, to receive and accept on behalf of the Town contributions of money, equipment, materials and services for the operation and maintenance of the parks, to negotiate contracts with parties for the conduct of activities on the park premises consistent with the provisions of the lease and to prepare all reports to the District Engineer of the US Army Corps of Engineers as required by the lease.

**§ 7-24. Membership.**

The Park Commission shall consist of five registered voters of the Town, to be elected initially for terms expiring September 30, 1998, 1999, 2000, 2001, and 2002, respectively, and one member to be elected thereafter each fiscal year for a term of three fiscal years.

ARTICLE VIII  
**Capital Planning Committee**  
**[Adopted 2-19-1988]**

**§ 7-25. Establishment; membership. [Amended 5-31-2016; 5-21-2019 ATM by Art. 20<sup>7</sup>]**

There is hereby established a committee to be known as the "Capital Planning Committee." Such Committee shall be composed of seven members as follows: Town Treasurer, Town Administrator, Town Accountant, one Select Board member, one Finance Board member, one Planning Board member, one citizen at large.

**§ 7-26. Member at large. [Amended 5-31-2016<sup>8</sup>]**

The member at large shall be appointed by the Select Board.

**§ 7-27. Duties.**

The Committee shall study proposed capital projects and improvements involving major tangible assets and projects which are (1) purchased or undertaken at intervals of not less than three years; (2) have a useful life of at least five years; and (3) cost over \$50,000. Requests of less than these parameters will be considered at the Committee's discretion. All officers, boards, and committees shall give to the Capital Planning Committee, by a date and on a form prepared by it, information concerning all projects anticipated by them as needing Town Meeting action during the ensuing five years. The Committee shall consider the relative need, timing and cost of these expenditures and the effects each will have on the financial position of the Town.

**§ 7-28. Capital improvements plan.**

The Committee shall undertake to prepare a capital improvements plan (CIP) which forecasts the Town's capital needs expenditures and funding mechanisms over the ensuing five-year periods. The CIP shall be updated on a yearly basis by the Committee.

**§ 7-29. Review and recommendation for annual budget.**

The Committee shall present its recommendations as to items for the ensuing fiscal year to the Finance Board for review and inclusion in the budget to be presented to the Town. These recommendations shall include a description of items to be obtained and a manner of funding these purchases.

**§ 7-30. Distribution of annual budget.**

The CIP and the Committee's recommended annual capital budget shall be published and made available in a manner consistent with the distribution of the Finance Board report.

**§ 7-31. Investigations and hearings.**

The Committee may under-take such investigations and hold such hearings as it may deem necessary.

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7. Editor's Note: Amendment pending.

8. Editor's Note: Amendment pending.

**§ 7-32. Expenditures of budget.**

After its adoption, the capital budget shall permit expenditure for assets and projects included therein of sums from departmental budgets in accordance with expenditure policies and procedures of the Town.

**§ 7-33. Budget hearing.**

A public hearing shall be held on the CIP budget on the same day as the Finance Board holds its public hearing, no later than April 21 of each year.

ARTICLE IX  
**Lake Oversight Committee**  
**[Adopted as Ch. 2, Sec. 2.16]**

**§ 7-34. Membership; appointment.**

There shall be a Lake Oversight Committee consisting of one Select Board member, one Conservation Commission member, one Planning Board Member and four members at large. The members at large shall be appointed by the Select Board.

**§ 7-35. Appointment of members at large.**

The members at large shall be appointed in the first year as follows: two single-year terms, one two-year term, one three-year term. At the end of each term, the following and all succeeding terms shall be for three years, to create four staggered, three-year terms.<sup>9</sup>

**§ 7-36. Duties. [Amended 5-21-2019 ATM by Art. 20]**

The Lake Oversight Committee shall review lake needs and report thereon to the Select Board and other Town boards and committees, as necessary.

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9. Editor's Note: Original Sec. 2.16.3, regarding the Select Board, of the General Bylaws, which immediately followed this section, was repealed 5-21-2019 ATM by Art. 20.

**Chapter 13****CONTRACTS AND COMPENSATION**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.**

**Amendments noted where applicable.]**

**§ 13-1. Participation by Town Officers.**

No officer of the Town shall in his official capacity make or pass upon or participate in making or passing upon any sale, contract or agreement or the terms or amount of any payment in which the Town is ever interested and in which such officer has any direct or personal financial interest.

**§ 13-2. Compensation to Town officers or employees.**

No Town officer and no salaried employee of the Town, or any agent of any such officer or employee, shall receive any compensation or commission for work done by him for the Town, except his official salary and fees allowed by law, without the permission of the Select Board expressed in said vote, which shall appear on their records with reasons therefor.

**§ 13-3. Contracts in writing.**

No contract involving an obligation of the Town in excess of \$100 shall be binding upon the Town unless it is in writing and signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred; and such board or committee shall make a record of every such contract in a book which shall be the property of the Town.

**Chapter 24****FINANCES**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.**

**Amendments noted where applicable.]**

**§ 24-1. Audit of accounts.<sup>10</sup>**

An audit of the accounts of the Town shall be made annually under the supervision of the state Bureau of Accounts, as provided by MGL c. 44, § 35.

**§ 24-2. Submission of bills. [Amended 10-8-1986]**

Each officer, board or committee authorized to spend money shall, on or before June 20 of each year, transmit to the Town Accountant all unpaid bills outstanding as of that date.

**§ 24-3. Town Collector.**

The Collector of Taxes shall collect, under the title of "Town Collector," all accounts due the Town except interest on investments of trusted funds. All accounts coming due the Town shall forthwith be committed by several officers, boards and committees of the Town to the Town

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**10. Editor's Note: Amendment pending.**

Collector, together with all available information in relation thereto.

**§ 24-4. Custody of certain documents.**

Except as otherwise provided by law, the Town Clerk shall be custodian of all bonds, deeds, contracts, insurance policies and other similar documents owned by the Town.

**§ 24-5. Disposition of departmental receipts.**

Every officer shall pay into the treasury of the Town all amounts received by him on behalf of the Town, except as otherwise provided by law, and shall make a true return thereof to the Town Accountant, stating the accounts upon which such amounts were received.

**§ 24-6. Municipal liens. [Amended 1-24-1982]**

The Tax Collector will be allowed to retain the fees for municipal liens under the provisions of MGL c. 60, § 23.

**§ 24-7. Departmental revolving fund. [Added 5-30-2017]**

- A. Purpose. This section establishes and authorizes revolving funds for use by the Town, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.<sup>11</sup>
- B. Expenditure limitations. A department or department manager, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:
  - (1) Full-time employee salaries shall not be charged to the fund unless fringe benefits associated with full-time employees are also charged to the fund.
  - (2) No liability shall be incurred in excess of the available balance of the fund.
  - (3) The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.
- C. Interest. Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.
- D. Procedures and reports. Except as provided in MGL c. 44, § 53E 1/2, and this section, the laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this section. The Town accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and balance available for the expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer

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11. Editor's Note: Amendment pending.

on appropriations made for its use.

E. Authorized revolving funds. The table establishes:

- (1) Each revolving fund authorized for use by a Town department, board, committee, agency or officer;
- (2) The department or agency head, board, committee or officer authorized to spend from each fund;
- (3) The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
- (4) The expenses of the program activity for which each fund may be used;
- (5) Any restrictions or conditions on expenditures from each fund,
- (6) Any reporting or other requirements that apply to each fund; and
- (7) The fiscal years each fund shall operate under this section.<sup>12</sup>

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or other receipts credited to fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements / Reports	Fiscal Year Begins
Cemetery Commission	Cemetery Commission	Burial fees	Excavations, burial costs, maintenance	None	None	July 1
Library Trustees	Library Trustees	Fines and book sale receipts	Purchase of books	None	None	July 1
Electrical Inspector	Electrical Inspector	Permit and inspection fees	Fees and expenses of Electrical Inspector	None	None	July 1
Plumbing Inspector	Plumbing Inspector	Permit, inspection fees	Fees, expenses of Plumbing Inspector	None	None	July 1
Zoning Board of Appeals	Zoning Board of Appeals	All fees	Fees and operating expenses of ZBA	None	None	July 1

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**12. Editor's Note: Amendment pending.**

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or other receipts credited to fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements / Reports	Fiscal Year Begins
Fire Dept.	Fire Chief	Permits, inspection fees, hazardous material fees	Material and equipment for fire prevention, public safety, education, and hazardous materials response	None	None	July 1
Animal Control Officer(s)	Animal Control Officer(s)	Fines and fees	Food, supplies, fees and expenses of ACO	None	None	July 1
Conservation Commission	Conservation Commission	Fees	Fees and operating expense of Conservation Commission	None	None	July 1
Planning Board	Planning Board	Fees	Fees and operating expense of the Planning Board	None	None	July 1
Building Commissioner	Building Commissioner	Permits and inspections fees	Inspections, clerical services, and expenses	None	None	July 1
Board of Health	Board of Health	Permit and inspection fees, brush dump fees	Sanitarian fees, fees for enforcing health regulations, brush dump maintenance	None	None	July 1
Community Center	Coordinator/ Select Board	Fees	Expenses	None	None	July 1

## Chapter 45

### LEGAL AFFAIRS

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.]**



**Amendments noted where applicable.]****§ 45-1. Power of Select Board.**

The Select Board shall be agents of the Town to institute, prosecute and defend any and all claims, actions, and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

**§ 45-2. Compromise and settlement of claims.**

The Select Board may at its discretion compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of an amount in excess of \$100. No settlement of a claim or suit obligating the Town in an amount in excess of \$100 shall be made, except as authorized by law, without the consent of the Town meeting.

**§ 45-3. Appointment of Town Counsel. [Amended 6-14-1994]**

The Select Board shall annually in June after the final adjournment of the Annual Town Meeting appoint a member in good standing of the bar to serve as Town Counsel for the term of one year from the first day of July following until his successor is appointed and enters the performance of his duties. It shall likewise fill any vacancy in said office for the unexpired term, and may employ special counsel to assist the Town Counsel whenever, in its judgment, necessity arises.

**§ 45-4. Duties of Town Counsel.<sup>13</sup>**

It shall be the duty of the Town Counsel to conduct the prosecution, defense or compromise of claims, actions or proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any Town officer, board or committee as such when the Select Board, having determined that any right or interests of the Town are or may be involved therein, shall so request; to conduct proceedings brought by or against the Assessors before the Appellate Tax Board; to assist in the prosecution of complaints for violation of any bylaw of the Town when requested so to do by the board or officer enforcing the same, to examine and report upon titles to all land to be acquired by the Town; to prepare or approve contracts, bonds, deeds and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his services may be required; and generally to advise and act for the Town officers, boards, and committees upon and in legal matters touching the duties of their respective offices.

**Chapter 58****OFFICERS AND EMPLOYEES**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as Ch. 2, Secs. 2.1, 2.2, and 2.4 to 2.8. Amendments noted where applicable.]**

**§ 58-1. Select Board.**

- A. The Select Board shall consist of three members. One member shall be elected at each Annual Town Meeting for a term of three years. **[Amended 6-1994]**

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13. Editor's Note: Amendment pending.

- B. It shall be the duty of the Select Board to work with the Finance Board to develop a balanced budget. **[Amended 8-12-1997; 5-31-2016]**
- C. The Select Board shall: **[Amended 5-31-2016]**
  - (1) Participate in the budget process by developing budget guidelines, reviewing budgets and evaluating proposals for the expenditure of funds.
  - (2) Participate in broad policy development on issues that will have a major impact on Town finances.
  - (3) Ensure the development of a capital improvement program.
  - (4) Monitor financial performance.

**§ 58-2. Town Clerk and Town Treasurer. [Amended 3-30-1965]**

The terms of the offices of Town Clerk and Town Treasurer shall be of three years' duration, respectively.

**§ 58-3. Constables. [Amended 8-12-1970]**

The number of constables is increased from two to three beginning with the Annual Town Election in May 1977, at which time one shall be elected for three years, one for two years and one for one year; thereafter, one shall be elected each year for a three-year term.

**§ 58-4. Highway Surveyor. [Amended 1-6-1971; 5-27-2003<sup>14</sup>]**

The position of Highway Surveyor will be placed on the ballot as an elected position for a three-year term commencing with the Annual Election of 2003.

**§ 58-5. Tree warden. [Amended 5-9-1972]**

The Tree Warden shall be elected for a term of three years.

**§ 58-6. Building Inspector. [Amended 11-8-1974; 6-14-1994; 1-27-1999]**

The Select Board shall appoint a Building Inspector annually, whose duties shall be to act on applications for building permits, to cooperate with the Zoning Enforcement Officer in enforcing the land use laws of the Town and Commonwealth of Massachusetts, and to enforce the building code of the Commonwealth of Massachusetts under Chapter 802 of the Acts and Resolves of 1972, as amended.<sup>15</sup>

**§ 58-7. Sealer of weights and measures. [Amended 5-13-1975]**

The term of the Sealer of Weights and Measures and the Measurer of Wood and Bark will be three-year terms beginning with the Annual Town Elections in 1976.

## Chapter 66

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14. Editor's Note: Amendment pending.

15. Editor's Note: See 780 CMR.

**RECORDS AND REPORTS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.**

**Amendments noted where applicable.]**

**§ 66-1. Custody of records.**

All officers, boards and committees of the Town shall cause records of their said doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town offices and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time but shall remain during such inspection under the supervision of the officer, board or committee having custody thereof.

**§ 66-2. Annual Town Report.**

- A. The Annual Town Report shall be based on the prior calendar year unless otherwise prescribed by law. **[Amended 5-31-2016]**
- B. The Annual Town Report shall contain, in addition to the reports of the officers, boards and committees, a detailed report of all monies received into and paid out of the Town treasury in the financial year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements; the report of the Collector of Taxes of receipts, payments and abatements, statements of all funds belonging to the Town or held for the benefit of its inhabitants, a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness or otherwise, and of indebtedness authorized but not incurred, and the purpose thereof; a statement of transfers made to or from any appropriations; abstracts of the records of the meetings of the Town held since publication of the last Annual Report; a copy of the warrant of the ensuing Town Meeting, together with the recommendations of the Advisory Committee thereon; and such other matters as the said report is required by law to contain, or as may be inserted by the Select Board under the discretion granted it by law.

**§ 66-3. Publication of miscellaneous material.**

The Town may direct that the bylaws and standing votes of the Town and the rules and regulations adopted by any officer, board or committee be printed either separately or as part of the annual report.

**Chapter 79****TOWN MEETINGS AND ELECTIONS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 6-1-1955.**

**Amendments noted where applicable.]**

**§ 79-1. Dates of meetings.**

- A. All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be determined by ballot, shall be considered on the third Tuesday in May. **[Amended 9-14-1987; amended 10-3-2017]**
- B. The Annual Town Meeting for the election of Town officers shall be held on the second

Tuesday in June. **[Amended 10-19-1987]**

- C. The polls shall be opened at 10:00 a.m. and shall remain open until 8:00 p.m. **[Amended 8-20-1973<sup>16</sup>]**

**§ 79-2. Notice of meetings.**

- A. Notice of every Town Meeting shall be given by posting attested copies of the warrant thereof in at least five public places in the Town, not less than seven days before the day fixed for such meeting. Copies of said warrant shall be sent to all officers, boards or committees concerned therein.
- B. At least five days before the day fixed in the warrant for the Annual Town Meeting, a copy of the annual report will be furnished at the Town Hall for all interested residents.
- C. At least five days before the day fixed in the warrant for any Town Meeting, the Select Board will notify each registered voter of same by postcard. **[Amended 10-15-1982]**

**§ 79-3. Conduct of meetings.**

- A. Quorum. The number of voters necessary to constitute a quorum at any Town Meeting shall be 25; provided, however, that a number less than a quorum may from time to time adjourn the same. This shall not apply to such parts of meetings as are devoted exclusively to the election of Town officers.
- B. Order of action on articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by a majority vote of the meeting.
- C. Priority of motions. When a question is before the meeting, the following motions, namely: to adjourn; to lay on the table; for the previous question; to postpone to a certain time; to commit, recommit, or to refer, to amend; to postpone indefinitely, shall be received and shall have precedence in the foregoing order; and the first three shall be decided without debate. **[Amended 6-5-1955]**
- D. Amendments. On the proposed amendments involving sums of money, the larger or largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.
- E. Disclosure of employment as attorney. Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.
- F. Manner of voting. When a question is put, the sense of the meeting shall be determined by a show of hands, and the Moderator shall declare the vote as it appears to him. If the decision of the Chair is doubted, the Moderator shall request all persons in the house to be seated and shall appoint tellers. The vote will then be taken by "yes" or "no" ballot.
- G. Balloting. The meeting may order that the vote on any motion shall be taken by a "yes" or "no" ballot.
- H. Limit of debate. No person shall speak for more than 10 minutes on any question unless his

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16. Editor's Note: Amendment pending.

time shall be extended by the Moderator or vote of the meeting.

- I. Committee reports. All committees shall report as directed by the Town. If no report is made within a year after its appointment, a committee shall be discharged unless, in the meantime, the Town shall have granted an extension of time.
- J. Completion of business. No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.

**§ 79-4. Nominations. [Amended 8-10-1989]**

- A. Caucus. A Town caucus for the nomination of candidates for Town officers shall be held on the sixth Tuesday preceding the Annual Town Meeting at 7:00 p.m. Such caucus shall be called by the Select Board and conducted in accordance with MGL c. 53, § 121. **[Amended 10-3-2017<sup>17</sup>]**
- B. Nomination papers. Nomination of candidates may also be made by means of nomination papers in accordance with MGL c. 53, §§ 6 to 17. The latest time for filing nomination papers with the Town Clerk shall be 5:00 p.m. on the 28th day preceding the date of the election, and the latest time for submitting such papers to the registrars shall be 5:00 p.m. of the 14th day preceding the final filing date. Nomination of candidates for Town officers may be made by means of nomination papers in accordance with the Town bylaws and General Laws of the Commonwealth regardless of whether or not such candidates were selected as candidates by the Town at the Town caucus.

**Part II: General Legislation**

**Chapter 103**

**ALARM SYSTEMS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 5-19-1993.**

**Amendments noted where applicable.]**

**§ 103-1. Registration of alarm systems.**

Every existing or newly installed burglar (intrusion) and/or fire alarm system must be registered with the respective Department (Fire or Police), this to include every externally audible device, whether or not it notifies the respective Department by telephone dialer or central office monitoring. Failure to comply with this section may result in a lack of response by Town emergency departments.

**§ 103-2. False alarm service fee.<sup>18</sup>**

A penalty may be assessed to the owner or tenant of a property for more than two false alarms annually that result in an emergency service response, said penalty for each occurrence to be set

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17. Editor's Note: Amendment pending.

18. Editor's Note: Amendment pending.

at \$25 for a police response and \$50 for a Fire Department response.

## **Chapter 107**

### **ALCOHOLIC BEVERAGES**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 10-29-2001.**

**Amendments noted where applicable.]**

#### **§ 107-1. Public consumption.<sup>19</sup>**

No person shall drink from or possess an open container of any alcoholic beverage as defined in MGL c. 138, § 1, and MGL c. 90, § 24(1), while on or in a public way, sidewalk, lake, public park, playground or any public or private land or place without the consent of the owner or person in control of such public or private land or place. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charge against the person(s) arrested or summoned before the Palmer District Court. As prescribed by law, alcoholic beverages may be seized by the arresting authority or authority initiating prosecution; in the event the person(s) are to be summoned, seized alcoholic beverages are to be submitted to a certified state food and drug facility for testing and certification of the contents. Upon final adjudication of the charge against the person(s) arrested or summoned and upon direction of the adjudicating authority, only such alcoholic beverages not marked by the state food and drug facility as containing a poisonous substance shall be returned to the person(s) entitled to lawful possession. Such alcoholic beverages must be claimed by said person within seven days of such adjudication or such alcoholic beverages shall be destroyed by the seizing authority. Violation of this bylaw is punishable by a fine of not less than \$50 for the first offense and by a fine of not less than \$100 for a second or subsequent offenses.

## **Chapter 112**

### **ANIMAL CONTROL**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 11-20-2013.**

**Amendments noted where applicable.]**

#### **§ 112-1. General guidelines.**

- A. The rules and regulations contained herein are intended to guide those persons who own or keep domestic animals within the Town of Holland in their role as responsible pet owners.
- B. The Town of Holland hereby accepts the provisions of Section 19 of Chapter 193 of the Acts of 2012<sup>20</sup> in order to enact bylaws and ordinances relative to the regulation of dogs.  
**[Amended 5-26-2015]**
- C. Enforcement of violations of the regulations contained herein shall be issued by the Animal Control Officer(s) or any police officer by way of issuing a warning, a monetary fine, or by filing a complaint, in writing, to the hearing authority, when applicable (MGL c. 40, § 21D).<sup>21</sup>

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19. Editor's Note: Amendment pending.

20. Editor's Note: See MGL c. 140, § 174.

**§ 112-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ANIMAL CONTROL OFFICER** — An appointed officer, authorized to enforce MGL c. 140, §§ 136A to 174E, inclusive, and as outlined in Holland Police Department job description number 102B (MGL c. 140, § 136A).

**ATTACK** — Aggressive physical contact initiated by an animal (MGL c 140, § 136A).

**DANGEROUS DOG** — A dog that either (i) without justification attacks a person or domestic animal, causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal (MGL c. 140, § 136A).<sup>22</sup>

**DOMESTIC ANIMAL** — An animal designated as domestic by regulations promulgated by the Department of Fish and Game in accordance with 321 CMR 9.02 (MGL c. 140, § 136A).

**HEARING AUTHORITY** — The Select Board of the Town of Holland (MGL c. 140, § 136A).

**KEEPER** — A person, business, corporation, entity or society, other than the owner, having possession of a dog (MGL c. 140, § 136A).

**KENNEL** — A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel (MGL c. 140, § 136A).

**LICENSE PERIOD** — The period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive (MGL c. 140, § 136A).

**LICENSING AUTHORITY** — The Clerk of the Town of Holland (MGL c. 140, § 136A).

**NUISANCE DOG** — A dog that:

- A. By excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity; or
- B. By excessive barking causing damage or other interference a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or
- C. Has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances (MGL c. 140, § 136A).

**PERSONAL KENNEL** — A pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided, further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally owned dog; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the

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21. Editor's Note: Amendment pending.

22. Editor's Note: Amendment pending.

Department,<sup>23</sup> may be sold, traded, bartered or distributed if the transfer is not for profit (MGL c. 140, § 136A).<sup>24</sup>

**§ 112-3. Requirements/prohibitions.**

- A. The owner or keeper of a dog, cat or ferret that is six months of age or older which is kept in the Town of Holland shall cause such a dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine, and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth shall be vaccinated within 30 days after the acquisition or arrival of such animal into the commonwealth or upon reaching the age of six months, whichever last occurs (MGL c. 140, § 145B).
- B. The owner or keeper of a dog over the age of six months which is kept in the Town of Holland shall obtain a license for such dog. The license shall be granted upon the condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl. Such license shall be processed in the office of The Town Clerk and shall contain an effective license period from July 1 to June 30 (MGL c. 140, § 137).
- C. The licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated against rabies, certification that such dog is exempt from said vaccination, or a notarized letter from the veterinarian that either of these certifications was issued relative to such dog (MGL c. 140, § 137).<sup>25</sup>
- D. The owner of keeper of a licensed dog shall keep affixed around the dog's neck or body a collar or harness of leather or other suitable material, to which the dog license tag issued by the Clerk shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined, and the fee for the substitute shall, if received by the Town Clerk, be retained by the Clerk unless otherwise provided by law. This subsection shall not apply to a person to whom a valid kennel license has been issued (MGL c. 140, § 137).
- E. No person owning or keeping a domestic animal in the Town of Holland shall allow such domestic animal to move freely outside the confines of the property owner or another person with the knowledge and consent of such owner.
- F. Any dog, whether licensed or unlicensed, shall be effectively restrained by a leash or other suitable device and accompanied by a suitable person when in or upon any way, public street or property within the Town of Holland.
- G. Any person may file a complaint that a dog owned or kept in the Town of Holland is a nuisance or dangerous, provided that the reason for such complaint is in accordance with the parameters outlined within the laws of the commonwealth. Such complaint shall be filed in writing to the hearing authority, and the hearing authority shall investigate or cause

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23. Editor's Note: The Massachusetts Department of Agricultural Resources.

24. Editor's Note: Amendment pending.

25. Editor's Note: Amendment pending.



the investigation of the complaint, to include examination under oath of the complainant at a public hearing to determine whether the dog is a nuisance or dangerous (MGL c. 140, § 157).

- H. Any dog which habitually barks or howls in a manner that is disturbing to citizens between the hours of 11:00 p.m. to 7:00 a.m. shall be declared as a nuisance dog.
- I. A person maintaining a kennel shall obtain a kennel license. An owner or keeper of less than four dogs, three months older or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under Section 137 and shall be subject to this Sections 137B and 137C and so much of Section 141<sup>26</sup> as it relates to violations of this subsection to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an Animal Control Officer. Such license shall be processed in the office of The Town Clerk and shall contain an effective license period from July 1 to June 30 (MGL c. 140, § 137A).
- J. Any domestic animal found to be moving freely in violation of § 112-3E, as outlined above, may be caught and confined by an Animal Control Officer, or other officer authorized to do so, or returned to the owner or keeper of record forthwith. The Animal Control Officer, or authorized agent, shall attempt to notify the owner or keeper if such person is known. The owner or keeper shall have a period of time, not to exceed seven days, within which to recover said animal. Return of the animal to the owner/keeper shall be dependent upon admission of ownership or the keeping of said animal, and assumption of responsibility by the owner or keeper. If a confined dog is unlicensed, a current license shall be obtained prior to release of such dog. All impound fees shall be paid prior to release of any confined dog or other domestic animal.

#### **§ 112-4. Exemptions.**

This section shall not be construed to limit or prohibit the use of hunting dogs during the hunting season or the conducting of field trials for hunting dogs, provided that such dog has the legal right to engage in such activity at the location the activity is being conducted; or to the training or use of police canine dogs.

#### **§ 112-5. Fees; violations and penalties.**

- A. The fee for a dog license as outlined in § 112-3B of this bylaw shall be \$10 for each dog which is spayed or neutered and \$20 for each dog which is not spayed or neutered, with the exception of a license issued for a service animal as defined by the Americans with Disabilities Act<sup>27</sup> or regulations promulgated thereunder, or for a dog owned by a person aged 70 years or over, in which case, no fee shall be charged (MGL c. 140, § 139).<sup>28</sup>
- B. The fee for a kennel license as outlined in § 112-3I of this bylaw shall be not less than \$40, with the exception of a license issued to a domestic, charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the

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26. Editor's Note: See MGL c. 140, §§ 137, 137B, 137C, and 141, respectively.

27. Editor's Note: See 42 U.S.C. § 12101 et seq.

28. Editor's Note: Amendment pending.

relief of suffering, in which case, no fee shall be charged (MGL c. 40, § 137A).<sup>29</sup>

- C. Violators of MGL c. 140, § 137, 137B and 138 shall be assessed a penalty of \$50 (MGL c. 140, § 141). Violators of MGL c. 140, § 137A, shall be assessed a penalty of \$500 for a first offense and not more than \$1,000 for a second or subsequent offense.<sup>30</sup>
- D. Violators of MGL c. 140, § 145B, shall be assessed a penalty of up to \$100.
- E. In addition to fees charged for medical or other care costs for properly licensed dogs of any other domestic animals that are confined, there shall be an impound fee of \$25, plus an additional boarding fee of \$25 for each day the animal is confined. The owner/keeper of any dog which is unlicensed at time of impound shall be charged an impound fee of \$35, plus an additional boarding fee of \$35 for each day that the animal is confined.
- F. Payment for all fees and fines shall be submitted by way of cash, or check or money order made out to the Town of Holland.
- G. The licensing fees outlined in Subsections A and B contained herein shall become effective for those licenses which are issued for the fiscal year 2015.

## Chapter 118

### BUILDINGS AND BUILDING CONSTRUCTION

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as indicated in article histories. Amendments noted where applicable.]**

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29. Editor's Note: Amendment pending.

30. Editor's Note: Amendment pending.

## ARTICLE I

**General Permit Requirements**  
**[Adopted as Ch. 8, Secs. 8.1, 8.2, and 8.41]****§ 118-1. Building permits.**

- A. No building in the Town shall be built, rebuilt, converted in use or added to for any purpose without first obtaining a building permit from the Building Inspector. **[Amended 10-8-1986]**
- B. If a determination is made that an applicant for a building permit must obtain approval/permit from Town officials, such as but not limited to Board of Health, Conservation Commission, Zoning Board of Appeals, Planning Board or Highway Surveyor, said request for approval/permit must be accompanied with set of scaled drawings showing, but not limited to, the following: **[Amended 1-27-1999]**
- (1) Property lines.
  - (2) Indicate access road.
  - (3) Location of abutters' well and septic.
  - (4) Footprint of building and/or addition, decks, garage or structures on applicant's property.
  - (5) Location of wetlands or other protected areas and any other requirement requested by any other board, committee or person.

**§ 118-2. Notification to Assessors. [Amended 6-15-1970]**

No person or firm shall build or construct a structure in the Town of Holland unless such person or firm shall file with the Board of Assessors, giving the location of the lot, size of the lot, type of building and estimated cost.

**§ 118-3. Conversion of residence. [Amended 1-3-1995]**

No permit shall be issued for the installation of a central heating system in any residence not so equipped unless the Board of Health have approved its septic system as complying with current standards.

**§ 118-4. Violations and penalties.<sup>31</sup>**

Violations of this article shall be subject to a penalty as provided in Chapter 1, § 1-4.

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31. Editor's Note: Amendment pending.

ARTICLE II  
**Numbering of Buildings<sup>32</sup>**  
**[Adopted 8-2-1996]**

**§ 118-5. Numbering required.<sup>33</sup>**

In accordance with Chapter 291 of the Acts of 1990, the Town of Holland, in conjunction with Statewide Emergency Telecommunication Board, has joined the enhanced 911 service. For matters of personal and public safety, in order to assure the fastest response by emergency service personnel without undue delay, residents of the Town of Holland are required to post house numbers of sufficient height so they are visible and clearly readable from the street. For the purpose of this bylaw, sufficient height will be four inches. House numbers shall contrast with their background and shall be Arabic numerals or alphabet letters.

**§ 118-6. Location of numbers.**

House numbers must be mounted on the front of the residence facing the roadway on a post or a mailbox at the front property line on the street adjacent to the driveway entrance to the residence. This will allow for location uniformity throughout the Town.

**§ 118-7. Violations and penalties.**

Any property owner who continues to violate the provision of this bylaw after 30 days following receipt by the property owner of joint, written notice of such violation from the Select Board and Chief of Police shall be liable to a penalty not exceeding \$25 for each offense. Each day that the said violation is allowed to continue after said thirty-day period shall constitute a separate offense.

**§ 118-8. Enforcement.**

This bylaw will be enforceable upon the implementation of E-911 service in the Town of Holland.

**§ 118-9. Civil violation.**

Any violation of the provisions of this article may be disposed of by the Police Department as a civil violation pursuant to the terms of MGL c. 40, § 21D, with a civil assessment of \$25.

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32. Editor's Note: For building number requirements regarding common driveways, see § 240-6.10E(3)(g).

33. Editor's Note: Amendment pending.

ARTICLE III  
**Stretch Energy Code**  
**[Adopted 4-19-2011]**

**§ 118-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) 2009 — A building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.<sup>34</sup>

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts State Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.<sup>35</sup>

**§ 118-11. Purpose.**

The purpose of 780 CMR 115.AA is to provide a more energy-efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

**§ 118-12. Applicability.<sup>36</sup>**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR Ch. 13, 780 CMR Ch. 34, 780 CMR N1100, or 780 CMR Ch. 51, Appendixes A through J, as applicable.

**§ 118-13. Authority.**

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy-efficiency requirements of 780 CMR may mandate adherence to this appendix. 780 CMR 115.AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

**§ 118-14. Incorporation by reference; enforcement.<sup>37</sup>**

- A. The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any amendments or modifications, is herein incorporated by reference into the Town of Holland General Bylaws, Chapter 118, Article III.

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34. Editor's Note: Amendment pending.

35. Editor's Note: Amendment pending.

36. Editor's Note: Amendment pending.

37. Editor's Note: Amendment pending.

- B. The Stretch Energy Code is enforceable by the Building Commissioner.

**Chapter 136****HAWKERS, PEDDLERS AND VENDORS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 11-20-2013 STM by Art. 5. Amendments noted where applicable.]**

**§ 136-1. General guidelines.**

- A. The purpose of this chapter is to establish regulations for registration as well as specific operating requirements for person(s) intending to engage in hawking, peddling, vending and door-to-door solicitation within the Town of Holland. This chapter is intended to protect citizens from the perpetration of fraud or other crimes, while allowing for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or noncommercial messages.
- B. No person, firm, copartnership, corporation, company, association, organization, committee or other such entity shall engage in solicitation or canvassing in or upon any public or private premises within the Town of Holland without first registering with the Holland Police Department. The Police Department shall respond to the registration request within 10 days. **[Amended 5-26-2015]**
- C. No person, firm, copartnership, corporation, company, association, organization, committee or other such entity shall engage in hawking, peddling, or vending in or upon any public or private premises within the Town of Holland without first registering with the Select Board. The Select Board shall respond to the registration request within 30 days. **[Amended 5-26-2015]**
- D. Within the scope of their legal authority, it shall be the responsibility of the Police Department and authorized police employees to identify those who fail to comply with the regulations outlined in this chapter.

**§ 136-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**HAWKER/PEDDLER** — Any person, either principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter, or exposing therefor any goods, wares or merchandise, either on foot or from any animal or vehicle.

**PERSON** — Any individual, firm, copartnership, corporation, company, association, organization, committee or other such entity.

**RESIDENTIAL PREMISES** — Each individual dwelling unit without limitation.

**SOLICITATION/CANVASSING** — Traveling by foot, motor vehicles or any type of conveyance, from place to place, from house to house, or from street to street, whether for salary, commission or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, books, periodicals, food, home improvement services, or attempting to sell, lease or take orders, whether or not advance payment on such sales is collected; or seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity.

**SOLICITOR** — Those person(s) who are seeking to sell or to obtain orders for the purchases of goods, wares, merchandise, or services of any kind, character or description, or seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type of publication.

**TRANSIENT VENDOR** — A person, either principal or agent, who engages in a temporary or transient business in the commonwealth selling goods, wares or merchandise, either in one locality or in traveling from place to place; provided, however, that this shall not include a person operating under a written agreement with a licensed promoter.

**§ 136-3. Requirements/prohibitions.**

- A. Each person intending to engage in hawking, peddling, vending, soliciting or canvassing within the Town of Holland must complete and submit a registration application (Form 8.31). **[Amended 5-26-2015]**
- B. Persons engaged in hawking, peddling, vending, soliciting or canvassing shall display in plain view the certificate of registration while so engaged and shall produce such certificate upon request.
- C. Immediately upon encountering an occupant of any residential premises, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of their business, and if they are representing an organization, firm or other entity.
- D. Persons engaged in solicitation or canvassing in or upon any residential premises shall immediately and peacefully leave such premises upon the request of the occupant.
- E. No person shall engage in hawking, peddling, vending, solicitation or canvassing in or upon any premises which displays a sign or other written notice which prohibits trespassing, solicitation or canvassing, unless otherwise invited to do so by the rightful owner of said premises.
- F. No person engaging in hawking, peddling, vending, solicitation or canvassing shall misrepresent in any way their true objective, status or mission, or that of any organization on behalf of which they are so engaged.
- G. No person engaging in hawking, peddling, vending, solicitation or canvassing shall utilize any plan, scheme or ruse to misrepresent the true status or mission of any person conducting the activity in order to gain admission to the home, office or other establishment of any person in the Town.
- H. No person engaging in hawking, peddling, vending, solicitation or canvassing shall engage in the conduct of business in such a manner as to obstruct or interfere with the flow of traffic, the maintenance of ways or removal of snow.
- I. No person engaging in hawking, peddling, vending, solicitation or canvassing shall, while in the conduct of business, cause unreasonable noise or emit odors in such a manner as to injure or disturb the health and peace of the public.
- J. Persons engaging in hawking, peddling, vending, solicitation or canvassing shall comply with all federal, state, and local laws, including, but not limited to, consumer protection laws such as MGL c. 93, c. 93A and c. 255D, as well as the provisions outlined within MGL. c. 101, §§ 1 to 34, as amended.



**§ 136-4. Registration.**

- A. Persons intending to engage in hawking, peddling or vending pursuant to this chapter shall file a registration application (Form 8.31) with the Select Board either in person or by mail. All statements made on the application or in connection therewith shall be made under the penalties of perjury. **[Amended 5-26-2015]**
- B. Persons intending to engage in solicitation or canvassing pursuant to this chapter shall file a registration application (Form 8.31) with the Police Department either in person or by mail. All statements made on the application or in connection therewith shall be made under the penalties of perjury. **[Amended 5-26-2015]**
- C. The application shall contain:
  - (1) The applicant's name, home address, telephone number, and date of birth; **[Amended 5-26-2015]**
  - (2) The name, address, telephone number, and state or federal tax identification of the applicant's business, firm, corporation, organization, or other entity represented (if applicable);
  - (3) The year, make, mode, color, registration number, state of registration, and owner's name of any vehicle that the applicant will be operating or transported by (if applicable);
  - (4) A description of the nature of the business and goods or services to be sold or the purpose(s) for which donations are to be requested;
  - (5) The length of time for which applicant seeks to conduct business in the Town;
  - (6) The applicant must also provide:
    - (a) The applicant's driver's license to be copied (if applicable);
    - (b) A recent passport-sized photograph of the applicant;
    - (c) Whether the applicant has been convicted in any state or federal court of the United States of burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct, unlawfully carrying weapons, or any other felony within the past seven years;
    - (d) Consent by the applicant authorizing a criminal history check to be conducted by the Chief of Police or designee.
- D. A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of MGL c. 101, § 22, shall, before making any sale of goods, wares or merchandise within the limits of the Town, register with the Select Board. Such registration shall be subject to reasonable rules and regulations as may from time to time be made by the Board.
- E. No person shall hawk or peddle goods, wares or merchandise within the limits of the Town, except as otherwise authorized by law, without first registering with the Select Board. Such registration shall be subject to reasonable rules and regulations and to fees as established by the Board in accordance with the provisions of MGL c. 101, § 17.

- F. A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of MGL c. 101, § 3, shall, before making any sales of goods, wares or merchandise within the limits of the Town, register with the Select Board. Such registration shall be subject to reasonable rules and regulations as may from time to time be made by the Board and to the payment of a fee in accordance with the provisions of MGL c. 101, § 5.

**§ 136-5. Certificate of registration.**

- A. All persons engaging in hawking, peddling, vending, solicitation or canvassing pursuant to this chapter shall be confined to conduct their business during the hours of 9:00 a.m. until 8:00 p.m., unless otherwise indicated on the certificate of registration. No person having received a certificate of registration shall represent to the public that the same constitutes an endorsement or approval by the Town of Holland or its officials.
- B. The Police Department shall keep a record of all applications and certificates of registration for solicitation for six years after the application is filed. All certificates will expire 90 days after the date of issue, unless otherwise indicated on the certificate of registration.
- C. Each certificate for hawking, peddling, vending and solicitation shall contain:
- (1) The name, address and photograph of the holder of the certificate;
  - (2) The name and address of the business, firm, corporation, organization, or other entity represented (if applicable);
  - (3) The date of issue and expiration date of the certificate;
  - (4) The signature of the licensing authority.
- D. Any certificate of registration may be revoked by the licensing authority for good cause, including a violation of any of the provisions of this chapter for the false statement(s) made in the application. Immediately upon such revocation, the licensing authority shall provide written notice to the holder of the certificate in person or by certified mail addressed to the address submitted in the application.
- E. Immediately upon the giving of such notice of revocation, the certificate of registration shall become null and void. No certificate of registration may be transferred to any other person or entity.
- F. Upon a determination that the holder of a certificate of registration has been convicted of fraud or found by the Attorney General's office to have violated any consumer protection law or regulation, the certificate of registration shall be revoked.
- G. Should any person who has been issued a certificate of registration be arrested or charged with a crime that is alleged to have occurred in the course of conducting business under the certificate, the certificate shall be automatically suspended. Such suspension shall last until the resolution of the criminal proceedings. Should the person be found guilty of the offense, the certificate shall be revoked and no subsequent certificate shall be issued.<sup>38</sup>
- H. Any revoked certificate or registration shall be turned in to the Police Department within

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38. Editor's Note: Amendment pending.

three days of notice. Failure to do so shall constitute a violation of this chapter, and each day the certificate is not turned in shall constitute a separate offense.

- I. The licensing authority may decline to issue a certificate of registration for any application which is determined to be incomplete, contains fraudulent statements or for any organization which has been charged with fraud, deceptive or misleading advertising, or is under investigation by the Attorney General's Public Protection and Advocacy Bureau until such charge or investigation is disposed of and the organization found not culpable.<sup>39</sup>
- J. The licensing authority may also decline to issue a certificate of registration to any person who has ever been convicted of a felony, convicted of any crimes listed on the application or to any person who has violated any provision outlined within this chapter.
- K. Any person or organization that is denied a certificate of registration or whose certificate has been revoked may appeal the decision by petitioning the Town of Holland Select Board in writing. Such appeal must be filed within five days after receipt of the notice of denial or revocation, and the Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal. The Select Board shall issue a decision within 21 days of the filing of the appeal.

**§ 136-6. Authorization to conduct criminal history checks.**

- A. As authorized by MGL c. 6, § 172B 1/2, the Police Department shall conduct state and federal fingerprint-based criminal history checks for individuals applying for the following license, registration or permit:<sup>40</sup>
  - (1) Hawking and peddling (SB);
  - (2) Door-to-door salespeople/solicitors (police);
  - (3) Manager of alcoholic beverage license (SB);
  - (4) Owner or operator of public conveyance (SB);
  - (5) Dealer of secondhand articles (SB);
  - (6) Pawn dealers (SB);
  - (7) Hackney drivers (SB);
  - (8) Ice cream truck vendors (SB);
- B. At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be utilized to check the individual's criminal history records.
- C. Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this section to the State Identification Section of Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-

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39. Editor's Note: Amendment pending.

40. Editor's Note: Amendment pending.

based state and national criminal records background checks of license, registration or permit applicants specified in this section.<sup>41</sup>

- D. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigations (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including FBI records, consistent with this section. The Town authorizes the Police Department to receive and utilize state and FBI records in connection with such background checks, consistent with this section. The state and FBI criminal history will not be disseminated to unauthorized entities.
- E. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in 28 CFR 16.34.
- F. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this section until it has taken the steps detailed in this section.
- G. Municipal officials should not deny an applicant the license, registration or permit based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.<sup>42</sup>
- H. The Police Department shall communicate the results of the fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting the final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.
- I. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license, registration or permit applications specified in this chapter. A Town licensing authority may deny an application for a license, registration or permit on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The Town or any of its officers, departments, boards, committees or other licensing authorities are hereby authorized to deny any application, including renewals and transfers thereof, for any person who is determined unfit for the license, registration or permit, as determined by the licensing authority, due to information obtained pursuant to this chapter.<sup>43</sup>

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41. Editor's Note: Amendment pending.

42. Editor's Note: Amendment pending.

- J. The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services, regarding the proper municipal accounting of those fees. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee maybe retained by the Town to be expended by the Police Department to help offset costs associated with administration of the fingerprinting system.
- K. The Chief of Police or his/her designee shall periodically check with the Executive Office of Public Safety and Security (EOPSS) to see if there have been any updates to ensure the Town remains in compliance.

#### **§ 136-7. Exemptions.**

- A. The provisions of this chapter shall not apply to officers or employees of Town, county, state, or federal government, or any subdivision thereof, when conducting official business; to persons soliciting solely for religious, charitable or political purposes; to persons selling or soliciting for the purpose of funding nonprofit entities, such as, but not limited to, persons affiliated with local recreation, youth activities, school activities and parent-teacher associations; to youth and students who sell lemonade or similar items, solicit for shoveling of snow or cutting of lawns or similar services.
- B. The provisions of this chapter shall not apply to organizations registered with the Attorney General's office in accordance with MGL c 68, § 19; to those who are exempt without the promulgation of rules and regulations by the municipality or those who are exempt pursuant to MGL c. 101, MGL c. 149, § 69, MGL c. 180, § 4, or any other MGL.
- C. The provisions of this chapter shall not be construed to prevent route salespersons or other persons having established customers from conducting business with those whom they make periodic deliveries, including, but not limited to, news carriers.
- D. The requirement of registration and certification outlined in this chapter shall not apply to those persons who provide the services of snow plowing, snow removal or the treatment or removal of ice or other debris when the activity is conducted in preparation of an impending severe weather event, during a severe weather event or as a result of a severe weather event; however, the provisions of this chapter related to requirements and prohibitions are applicable to such persons.<sup>44</sup>
- E. Licensing authorities shall be authorized to amend and/or suspend portions of the rules and regulations contained herein at any time, without notice, in preparation of an impending emergency, during an existing emergency, or in the event of extraordinary circumstances, such as, but not limited to, severe weather events, provided there is reasonable justification for such action.

#### **§ 136-8. Fees; violations and penalties.**

- A. An application for certificate of registration shall be filed by utilizing the appropriate form

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43. Editor's Note: Amendment pending.

44. Editor's Note: Amendment pending.

provided by the municipality, Form 8.31, and shall be submitted with a nonrefundable application fee of \$20 by way of check or money order made out to the Town of Holland.<sup>45</sup>

- B. Violation by a solicitor or canvasser of any provision of this chapter shall be punishable by a fine of \$100 for each and every violation; however, violation of MGL c. 101, § 34, shall be punishable as provided therein. [**Amended 5-26-2015<sup>46</sup>**]
- C. Provisions for the noncriminal disposition of violations of the regulations outlined in this chapter shall be conducted in accordance with MGL c. 40, § 21D.

## **Chapter 142**

### **INLAND WATERS AND DOCKS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as indicated in article histories. Amendments noted where applicable.]**

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45. Editor's Note: Amendment pending.

46. Editor's Note: Amendment pending.

ARTICLE I  
**Inland Waters**  
[HISTORY: Adopted as Ch. 12]

**§ 142-1. Purpose.**

The rules contained herein are enacted for the purpose of guiding those who utilize for recreation the inland waters of the Town of Holland, by establishing regulations in order to ensure safety and to maintain the integrity of the water and its surroundings.

**§ 142-2. Authority.**<sup>47</sup>

In addition to the provisions contained within this document, regulations are established and enforced pursuant the General Laws (MGL), Code of Massachusetts Regulations (CMR), Federal Navigation Rules for Inland Waters (CFR), and Title 36 of U.S. Army Corps of Engineers Rules and Regulations.

**§ 142-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

COVE — A small, sheltered inlet.

HEADWAY SPEED — The minimum speed at which a vessel may be operated and maintain steerage way, but not to exceed six mph, except in the case of a personal watercraft (PWC), which shall mean the slowest speed at which the watercraft may be operated and maintain steerage way and the operator shall be either kneeling or sitting.

NARROW — A narrow channel connecting two larger areas of water.

PERSONAL WATERCRAFT (PWC) — A vessel propelled by a water-jet pump or other machinery as its primary source of motor propulsion which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated in the conventional manner by a person sitting or standing inside the vessel.

POWER-DRIVEN VESSEL — Any vessel propelled by machinery.

VESSEL — Watercraft of every description that is used or capable of being used as a means of transportation on water, whether in motion or at rest.

**§ 142-4. General guidelines.**

- A. All vessels shall be operated in a safe and courteous manner while maintaining safe speeds and distances which depend on the conditions at the time of operation. Conditions include, but are not limited to, wind, water, visibility, traffic density, maneuverability and the proximity of navigational hazards, shorelines, swimming areas, docks, ramps, and other vessels.
- B. No person shall operate any vessel or PWC in a manner which fails to exercise the degree of care necessary to prevent the endangering of life, limb, or property of any person. Any individual who is in violation may be considered to be operating in a negligent manner, regardless of it being a result of operator ignorance, inattention, indifference, or

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<sup>47</sup>. Editor's Note: Amendment pending.

carelessness. Negligent operation includes, but is not limited to, those who operate at a speed of greater than 45 mph, those who operate erratically or at a high speed in a congested area, in fog or stormy conditions, while under the influence of alcohol or drugs, and near or through areas that are being utilized by swimmers or divers.

#### **§ 142-5. Regulations.**

- A. All power-driven vessels shall travel in a counterclockwise direction while operating on the waters of the Hamilton Reservoir.
- B. All power-driven vessels shall yield right-of-way to and allow proceeding with precedence for all swimmers and non-power-driven vessels.<sup>48</sup>
- C. No power-driven vessel shall exceed headway speed while operating in narrows, coves, and in the area of the outlet of the Quinebaug River, except in the case of a PWC, which shall be operated at the slowest speed possible to maintain steerage way while the operator is either kneeling or sitting.
- D. On the waters of the Hamilton Reservoir, all power-driven vessel speed shall be limited to no greater than headway speed from sunset until sunrise and shall be limited to no greater than 6 mph until 11:00 a.m. on Saturdays, Sundays, and on those days which are defined as a legal holiday by MGL.
- E. On the waters of Holland Pond, also referred to as "Lake Siog," all power-driven vessel speeds shall be limited to no greater than headway speed at all times.
- F. No vessel shall tow more than two persons simultaneously who are engaged in water skiing or who are in tow in any other manner.
- G. All vessels engaged in towing persons who are water-skiing or who are in tow in any other manner shall be occupied by an observer, other than the operator, at least 12 years of age, who shall be constantly observing the persons being towed.
- H. All persons, to include marina operators, who permit the launching of vessels from their property shall provide refuse barrels or containers and sanitary toilet facilities for those who utilize their property for such purpose.

#### **§ 142-6. Restrictions.**

- A. No power-driven vessel shall engage in any type of racing activity.
- B. No person operating a personal watercraft (PWC) shall tow any person in any manner.
- C. No person shall discharge or dispose of raw sewage, garbage or any other debris into or upon inland waters.
- D. No personal watercraft (PWC) shall be operated on the waters of Holland Pond, also referred to as "Lake Siog."
- E. No vessel equipped with toilets, cooking facilities or laundry facilities shall be authorized to be on inland waters. No chlorinators of any kind shall be used.

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48. Editor's Note: Amendment pending.



- F. No person shall carry or transport on any vessel any open container as defined in MGL c. 90, § 24I, which contains an alcoholic beverage.<sup>49</sup>
- G. No person shall utilize the beach located on Pond Bridge Road (Parcel No. 15-G-1), for the purpose of launching a vessel, fishing in a designated swimming area, camping, to place camping equipment or to create any type of fire, to include fire for cooking, heating, or to dispose of material.
- H. No person shall willfully deface, injure, move, alter, obstruct or interfere with any officially posted sign, signal, device or marking.
- I. No person shall place, maintain or display upon or in view of inland waters any sign, signal, device or marking which attempts to direct, alter or monitor the movement or speed of vessels or which attempts to alter the regulations contained herein, to include the regulations referenced in § 142-2 of this document.

**§ 142-7. Exemptions.**

- A. The provisions outlined in § 142-5A, D and E and § 142-6D of this document shall not apply to public safety personnel, to include authorized Army Corps of Engineers employees, who are engaged in the performance of their duties during situations which require a deviation from those regulations in order to safely and successfully complete their mission.
- B. The Select Board shall be empowered to suspend the provisions outlined in this document for the purpose of allowing authorized clubs to participate in and to practice for water-ski shows.<sup>50</sup>
- C. The Select Board shall be authorized to place or cause to be placed signs, signals, devices and markings in the waters of and upon the lands surrounding the Hamilton Reservoir for the purpose of displaying rules and regulations pertaining to the utilization of such waterway.<sup>51</sup>
- D. Public safety personnel shall be authorized to place or cause to be placed signs, signals, devices and markings in the waters of and upon the lands surrounding the Hamilton Reservoir during situations deemed as an emergency, and in order to alert individuals to a potential hazard.
- E. Pursuant to Title 36, Chapter III, Part 327,<sup>52</sup> the U.S. Army Corps of Engineers shall be authorized to place or cause to be placed signs, signals, devices and markings in the waters of and upon the lands surrounding Holland Pond, also referred to as "Lake Siog."
- F. The placement of signs, signals, devices and markings upon the lands surrounding the Hamilton Reservoir for the purpose of deterring access and use prior to and during times of chemical treatment in order to ensure that the application of such chemical is successful shall be authorized.

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49. Editor's Note: Amendment pending.

50. Editor's Note: Amendment pending.

51. Editor's Note: Amendment pending.

52. Editor's Note: See 36 CFR Part 327.

- G. The placement of signs, signals, devices and markings upon the lands surrounding the Hamilton Reservoir and Holland Pond for the purpose of restricting access and use during times that the condition of the water may endanger public health shall be authorized.
- H. The provisions outlined in this section shall not apply to those waters which are less than 10 acres and privately owned.

**§ 142-8. Enforcement; violations and penalties.**

- A. It shall be the responsibility of the Police Department and authorized police employees to conduct enforcement with impartiality and reasonableness, while taking into account safety, precedence of their assignment and the scope of resources at the time of enforcement.
- B. Police employees shall be authorized to issue a noncriminal citation pursuant to MGL c. 40, § 21D, in the amount of \$25 to those who violate the regulations outlined in § 142-5A through F and H, and the restrictions outlined in § 142-6C through I.
- C. Police employees shall be authorized to inspect any vessel at any stage of or during the initiation of a voyage for the purposes of ensuring said vessel contains the proper equipment and is properly registered.
- D. In addition to a noncriminal citation, the Chief of Police or his/her designee shall be authorized to remove or cause to be removed every sign, signal, device or marking which is in violation of § 142-6I without notice and at the expense of the violator for any cost incurred for the process of removing such sign.
- E. Violations of § 142-6A and B are punishable as provided in Chapter 1, § 1-4.<sup>53</sup>

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53. Editor's Note: Amendment pending.

## ARTICLE II

**Waterfront Lots****[Adopted 1-3-1995; amended in its entirety 2-15-2007 STM by Art. 13]****§ 142-9. Definitions; general provisions.**

## A. As used in this article:

**DOCK** — A walkway extending from the high-water line into the waterfront area suitable as a mooring place for boaters and supported by a rigid framework, by a floating device or by a combination of the two.

**HIGH-WATER LINE** — Of any waterfront lot shall mean the water's edge of such lot at a time when the reservoir water level is at the spillway level.

**MOORING** — The location of a boat or other floating object while tied to a dock or while secured by an anchor.

**WATERFRONT AREA** — Of any waterfront lot shall mean an area of reservoir surface bounded as follows.

- (1) By the lot's high-water line;
- (2) By two extended side lines beginning at points at which the side lot lines of the waterfront lot intersect the high-water line and extending on the same bearing as the side lot line a distance of 50 feet from the high-water line or one-third the distance to the opposite shore, whichever is less; and
- (3) By a line connecting the offshore ends of the extended side lines and parallel to the shoreline.

**WATERFRONT LOT** — Any lot of real property abutting the waters of Hamilton Reservoir.

## B. Docks, moorings, and other moored objects on or off of rights-of-way (easements to cross) shall abide by this bylaw.

**§ 142-10. Location of docks and mooring; waivers.**

- A. No dock shall be installed or maintained in the waterfront area of any waterfront lot in such a location or in such a manner as to impinge upon or obstruct the waterfront area of an adjoining lot. No dock shall extend any longer than needed to safely moor a boat but shall not exceed 50 feet from the high-water line or 1/3 of the distance to the opposite shore, whichever is less, without the express written permission from the landowner being impinged upon.
- B. No boat, float, raft, or other floating object shall be moored or anchored in the waterfront area of any lot in such a location or manner as to impinge upon or obstruct the waterfront area of an adjoining lot.
- C. The strict application of the regulations in § 142-10A and B of this article may be waived by the Select Board on the application of the owner of the waterfront lot or his representative if the Board finds:

- (1) That the strict enforcement of such regulations would unreasonably restrict the applicant in the use and enjoyment of his property and its waterfront area; and
  - (2) That the requested waiver will not unreasonably detract from the use and enjoyment of adjoining waterfront lots and waterfront areas.
- D. In ruling upon applications for waivers, the Select Board may take into account the following factors:
- (1) The depth of water and the bottom gradient in the waterfront area.
  - (2) The divergence or convergence of the extended lot lines defining the waterfront area pursuant to the definition thereof in § 142-9 of this article.
  - (3) The fact that a particular installation not strictly complying with these regulations may have existed without objection before the enactment of this bylaw.
  - (4) The fact that rights to the use of the waterfront in question are shared by two or more property owners pursuant to deeded rights of access.
- E. An application of a waiver may be heard at any scheduled meeting of the Select Board. At least 14 days before the scheduled meeting at which the application is to be heard, the applicant shall file with the Select Board a written application stating the nature of the waiver requested and shall notify the owners of adjoining waterfront lots by certified mail of the substance of the request and the date, time and place of the hearing. The Select Board's ruling and the reasons therefor shall be entered in the minutes of the meeting.
- F. Every dock or other moored object shall be removed from the waterfront area during the period from October 31 of each year to the following April 1.
- (1) Those docks existing prior to 1995 that are built in a permanent fashion are grandfathered. These docks are considered grandfathered docks and are excluded from § 142-10F until they are replaced, at which time they must comply with all the bylaws pertaining to docks. All new structures that comply with Subsection D are excluded from § 142-10F.
  - (2) The fine for nonremoval of every dock and every boat or other moored object will be \$100 per day per dock or other moored object, beginning on November 1, and each day thereafter during which each such violation continues shall constitute a separate violation of this bylaw.
- G. Docks, floats, rafts or other moored objects need to be labeled with the Holland property address of the owner in a permanent method readily visible from the lake a minimum of three inches' height.
- H. Boats may be temporarily anchored outside any waterfront area while occupied by persons for fishing or other recreational activities but shall not be left unattended.

#### **§ 142-11. Construction on waterfront areas.**

No person shall install a dock, a pier, retaining wall, boat ramp, platform, building foundation or similar structure designed as a permanent installation in the waterfront area or along the high-water line of any lot without having first filed with the Conservation Commission a

notice of intent and obtained an order of conditions from said Commission, permitting such installation and then must comply with all conditions and limitations of such order. This includes replacement of a dock which was previously grandfathered.

**§ 142-12. Enforcement; violations and penalties.**

- A. The Police Department is authorized by the Select Board to notify the owner or occupant of any waterfront lot, or the owner of any watercraft or other moored object, of any observed violation of the provisions of this article, excluding § 142-10F(1). Said owner or occupant has seven days after written notification has been received to correct the violation(s), after which the Police Department may issue a noncriminal assessment of \$100. Each day thereafter during which such violation continues shall constitute a separate violation of this bylaw, starting on the eighth day after notification. It may also demand removal of said structure at the owner's expense due to noncompliance.
- B. The Conservation Commission and/or Building Inspector is authorized to notify the owner or occupant of any waterfront lot of any observed violation of § 142-12 of this article. Said owner or occupant has seven days after written notification has been received to correct the violation(s). If such a violation is not removed within seven days of the date of such notification, each day during which such violation continues shall constitute a separate violation of this bylaw. The Conservation Commission may issue a noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D, and shall impose a noncriminal assessment of \$100 beginning on day eight for each such violation.
- C. Any individual abutter encroached upon can enforce this bylaw by bringing civil action for violation of this bylaw.

## **Chapter 151**

### **LICENSES AND PERMITS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as indicated in article histories. Amendments noted where applicable.]**

## ARTICLE I

**Denial or Revocation for Failure to Pay Taxes, Fees and Charges****[Adopted 9-29-1986]**

(This article enacted pursuant to the provisions of Chapter 40, Section 57 of the general laws of Massachusetts which the Town has accepted)

**§ 151-1. Tax Collector annual list.<sup>54</sup>**

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereafter referred to as the "Tax Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending petition before the appellate tax board or a pending application for abatement of such tax.

**§ 151-2. Authority to deny, revoke or suspend licenses and permits.<sup>55</sup>**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license denied, suspended, or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

**§ 151-3. Payment agreement; conditions of limitation on license or permit.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or

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54. Editor's Note: Amendment pending.

55. Editor's Note: Amendment pending.

revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**§ 151-4. Waiver by Select Board.**

The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268, § 1, in the business or activity conducted in or on said property.

**§ 151-5. Exemptions.<sup>56</sup>**

This article shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping licenses, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

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**56. Editor's Note: Amendment pending.**



**Chapter 157****MOBILE HOMES AND HOUSE TRAILERS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as Ch. 9, Sec. 9.3.**

**Amendments noted where applicable.]**

**§ 157-1. Limitations on trailers and mobile homes. [Amended 3-13-1965<sup>57</sup>]**

Not more than one house trailer, mobile home or trailer which contains sleeping and eating accommodations may be kept on any parcel of land. No house trailer, mobile home or trailer which contains sleeping and eating accommodations may be used as living quarters while so located, except that the owner or occupier of a residence which has been destroyed by fire or other natural holocaust may place a manufactured home on the site of such residence and reside therein for a period not to exceed 12 months while the residence is being rebuilt. Space shall not be leased for trailers; provided, however, that the foregoing shall not prohibit the establishment of a trailer camp under the provisions of Chapter 140 of the General Laws.

**§ 157-2. Permit required for improvement. [Amended 11-8-1974]**

In the event any house trailer, mobile home, or trailer which existed prior to the adoption of Article 3 of the Special Town Meeting of September 13, 1963, is sought to be improved by the owner of the land on which said house trailer, mobile home, or trailer is situated, so as to increase its size or be replaced by a newer and better house trailer, mobile home or trailer of equal or greater size, the owner of the lot on which the house trailer, mobile home or trailer is situated shall apply for a permit from the Planning Board of the Town of Holland and shall receive the permit from the Planning Board of the Town of Holland, provided that all the requirements of the sanitary laws of the Town, and the Commonwealth of Massachusetts, and any other land use regulations adopted by the Town are satisfied.

**§ 157-3. Violations and penalties.<sup>58</sup>**

Violations of this chapter shall be punishable as provided in Chapter 1, § 1-4.

**Chapter 165****OPEN BURNING**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 2-3-1994.**

**Amendments noted where applicable.]**

**§ 165-1. Violations and penalties.<sup>59</sup>**

Any person who violates the provisions of 310 CMR 7.07 or MGL c. 48, § 13, regarding the open burning of brush and unlawful materials at unlawful times or in unlawful places, will be fined \$50 for the first offense and \$100 for each subsequent offense within a twelve-month period

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57. Editor's Note: Amendment pending.

58. Editor's Note: Amendment pending.

59. Editor's Note: Amendment pending.

**§ 165-2. Noncriminal disposition.**

The Fire and Police Departments are authorized to enforce the provisions of the foregoing section by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D, and/or MGL c. 90, or any other provision of the General Laws authorizing such noncriminal complaint and shall impose a civil penalty of \$50 for each such violation.

**Chapter 170****PROPERTY MAINTENANCE**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 1-27-1999.**

**Amendments noted where applicable.]**

**§ 170-1. Storage of rubbish, salvage and discarded materials, and unregistered vehicles; enforcement.**

No person, property owner or tenant shall place, store, or allow any accumulation of rubbish, refuse, salvage materials or discarded household furniture or more than one unregistered motor vehicle or trailer within plain view of an abutter's property or within plain view from a public way or private way, this chapter to be enforced by the Zoning Enforcement Officer.

**§ 170-2. Violations and penalties.<sup>60</sup>**

Violations of this chapter shall be punishable as provided in Chapter 1, § 1-4.

**Chapter 183****STREETS, SIDEWALKS AND DRIVEWAYS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as Ch. 10.**

**Amendments noted where applicable.]**

**§ 183-1. Acceptance of ways as public highways. [Amended 1-6-1970]**

All private roads that are to be petitioned to be considered for acceptance by the Town as public highways and which are later to be petitioned by the Town for inclusion as part of the Chapter 81<sup>61</sup> mileage for such Town shall be laid out in accordance with the provisions of MGL c. 82, §§ 21 to 23, inclusive, and any other requirements of eligibility for Chapter 81 reimbursement.

**§ 183-2. Driveways and access roads.**

- A. No one shall construct a driveway or access road so as to drain surface water from said driveway or access road onto the surface of any Town road or way dedicated to public use. In the event the owner of land does so construct a driveway or access road, or cause any other construction to be made which has the effect of causing surface water to drain onto Town roads or ways dedicated to a public use, the Town Highway Surveyor shall have the right to change the Town road or way dedicated to a public use so as to prevent such drainage or surface water from going upon said roads or ways dedicated to public use.<sup>62</sup>

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60. Editor's Note: Amendment pending.

61. Editor's Note: See MGL c. 81.

**B. Permit required. [Amended 11-8-1974]**

- (1) A permit is required from the Select Board, with the approval of the Highway Surveyor, before anyone shall construct a driveway or access road so as to connect for vehicular access privately owned property to a Town road. A written application, together with a plan or map, shall be submitted to the Select Board, showing the following:<sup>63</sup>
    - (a) Abutting roads and property ownership with existing contours and grades at pertinent locations.
    - (b) Existing drainage channels and proposed drainage after regrading.
    - (c) Access from the property to the public road.
  - (2) Any permit issued by the Select Board as herein described shall expire within two years of the date of said permit but may be renewed by the Select Board for an additional period of time.
- C. No person or business shall cause any surface water, drainage, perimeter drains or water of any source to flow on a Town road or on a way open to public use. **[Amended 6-14-1994]**
- D. No person or business shall obstruct or allow the obstruction of any Town of Holland drainage system. **[Amended 9-24-1992; 1-3-1995]**
- E. Any violation of this section shall be corrected by the Town of Holland Highway Department or its agents, all costs to be paid by that person or business that causes this violation to exist. Any such violation may be disposed of as a civil violation pursuant to MGL c. 40, § 21D, with a civil assessment of \$25. **[Amended 9-24-1992; 1-3-1995]**

**§ 183-3. Maintenance of private ways.**

- A. The Town may make temporary repairs on private ways which have been open to public use for six years or more.
- B. Such temporary repairs may include the regrading of gravel roads, the oiling of oiled roads, filling of potholes, depressions and ruts with suitable materials and replacement of damaged culverts, but not including original construction.
- C. No such repairs shall be made unless the Select Board determines that such repairs are necessary for public convenience and safety.<sup>64</sup> **[Amended 10-27-1993]**
- D. The Town shall not be liable for bodily injury, death or damage to property caused by any defect or want of repair in a private way. **[Amended 10-27-1993]**

**§ 183-4. Plowing of private ways. [Amended 10-27-1993]**

- A. The Town may plow snow from and sand private ways on which year-round residents reside and where the Select Board, in consultation with the Highway Surveyor, has

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62. Editor's Note: Amendment pending.

63. Editor's Note: Amendment pending.

64. Editor's Note: Original Sec. 10.3.4, regarding betterment charges and cash deposits, which immediately followed this subsection, was repealed 5-21-2019 ATM by Art. 21.

determined that a turnaround exists which is adequate for safe operation of plowing equipment in winter storm conditions

- B. No private driveways shall be plowed.
- C. The Town shall not be liable for damages of any kind caused by failure to plow a private way.

## **Chapter 195**

### **VEHICLES AND TRAFFIC**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland as Ch. 9, Secs. 9.1, 9.2, and 9.5. Amendments noted where applicable.]**

## ARTICLE I

**Restrictions of Vehicles on Town Property****§ 195-1. Unauthorized vehicles restricted. [Amended 9-1-1981]**

No unauthorized vehicles shall operate on Town-owned property other than designated roadways or parking areas.

**§ 195-2. Permit required for construction. [Amended 9-24-1992]**

No construction activity shall be conducted on or from Town property or roadways without a permit from the Select Board with approval of the Town of Holland Highway Surveyor, said permit to be secured prior to the time of planned activity.

**§ 195-3. Damage by contractors. [Amended 9-24-1992]**

Any damage to Town property by the action of contractors performing work for abutters, if after written notice of 14 days, or less if deemed an emergency by the Highway Surveyor, the contractor fails to repair it, shall be repaired by the Town of Holland, in which case all costs for this repair work shall be chargeable to the contractor causing the damage.

## ARTICLE II

**Parking Regulations and Regulations of Traffic Signs, Signals and Devices****§ 195-4. General guidelines.**

- A. The guidelines in this bylaw shall be consistent with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways of Massachusetts, which has been correlated with and conforms, as closely as Massachusetts laws and conditions will allow, to the standards adopted by the Federal Highway Administrator as a national standard for application on all classes of highways. Modifications that were deemed necessary to cover local requirements have been made and are presented as amendments and addenda in the manual as the official standards of MassDOT, Highway Division (MGL c. 85, § 2, MUTCD, current edition).<sup>65</sup>
- B. It shall be the responsibility of the Police Department and any police employees to enforce the parking regulations of the municipality with reasonableness and impartiality (MGL c. 90, § 20A, P&P 5.05).
- C. For the purposes of this bylaw, the term "parking" shall be defined as the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in loading or unloading, in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.
- D. For the purposes of this bylaw, the term "way" shall be defined as any public highway, private way laid out under the authority of statute, way dedicated to public use, or way under the control of Park Commissioners or body having like powers (MGL c. 90, § 1).
- E. No person shall park any vehicle or trailer, or place any object on any way or portion thereof in such manner as to obstruct the use of such way by the public or the use of such way by persons having a legal right thereto.

**§ 195-5. Traffic signs and signals.**

- A. The Highway Surveyor is hereby authorized, and as to those signs and signals required it shall be his/her duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Department of Transportation of the Commonwealth of Massachusetts (MGL c. 85, § 2; MUTCD, current edition).<sup>66</sup>
- B. No person shall willfully deface, injure, move, alter, obstruct or interfere with any official traffic or parking sign, device or marking (MUTCD, current edition).
- C. No person shall place, maintain or display, upon or in view of any way, any unofficial sign, signal, device, marking or other object which hides from view any official traffic or parking sign, signal, device or marking.
- D. No person shall place, maintain or display, upon or in view of any way, any unofficial sign, signal, device or marking which purports to be, or is an imitation of or resembles, an

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65. Editor's Note: Amendment pending.

66. Editor's Note: Amendment pending.

official traffic sign, signal, device or marking (MUTCD, current edition).

- E. No person shall place, maintain or display, upon or in view of any way, any unofficial sign, signal, or device or marking which attempts to direct, alter or monitor the movement or speed of traffic or the parking of vehicles.
- F. The Chief of Police is empowered and directed to remove or cause to be removed every such prohibited sign, signal, device or marking without notice, and violators may be liable to a penalty for each and every violation of the restrictions outlined in this section (MUTCD, current edition).

**§ 195-6. Vehicles parked in violation; removal authority.**

- A. The Police Department has the authority and the responsibility to ensure the safe and efficient flow of vehicular traffic, which may necessitate towing of immobile or seemingly abandoned vehicles from ways. The towing of vehicles shall be completed in accordance with Massachusetts General Laws, Codes of Massachusetts Regulations (CMR), local ordinances and Police Department policies (P&P Number 5.05, 5.06).<sup>67</sup>
- B. The Chief of Police, or other officers within the Police Department as he/she may from time to time designate, is hereby authorized to remove to some convenient place through the agency of a person or persons in the employ of the Police Department or by an independent contractor any vehicle parked or standing on any part of any way under the control of the municipality in such a manner as to obstruct any curb ramp designed for use by handicapped persons as means of egress to a street or public way, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or displays the special parking identification plate authorized by MGL c. 90, § 2, or bears the official identification of a handicapped person issued by any other state or Canadian province (MGL c. 40, § 22D).
- C. Neither the removal nor storage of any vehicle under the provisions of this section shall be deemed to be services rendered or work performed by the Town and/or Police Department. The contractor shall be liable to the owner of such vehicle for any damage caused to it arising out of negligence in the course of such removal and storage. Liability shall be imposed for the cost of such removal and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle (MGL c 40, § 22D).
- D. Vehicles owned by the commonwealth or a political subdivision thereof or by the United States or any instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered shall not, however, be subject to such removal (MGL c 40, § 22D).<sup>68</sup>

**§ 195-7. Restrictions.**

- A. No person shall park any vehicle or trailer, or place any object, on any way or portion thereof in such manner as to obstruct the use of such way by the public or the use of such way by persons having a legal right thereto.

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67. Editor's Note: Original Sec. 9.2.3.2, regarding temporary closure of public ways in certain circumstances, which immediately followed this subsection, was repealed (amendment pending).

68. Editor's Note: Amendment pending.

- B. No vehicle, trailer, or vessel shall be parked on any property within the Town in a manner which obstructs the view of vehicles traveling on or entering onto any way.
- C. No vehicle trailer or vessel which is abandoned or junked (as defined in Section III of Holland Police Department policy number 5 06) or unregistered, dismantled, unserviceable or for sale, shall be parked on any way or any portion thereof.
- D. No vehicle or trailer shall be parked in any area which violates the restrictions of any sign, signal device or marking which has been officially posted for any way or for any property under the control of the Town, including, but not limited to, those parking areas located at 23, 27 and 28 Sturbridge Road, as well as those areas under control of the Town which are contiguous to Hitchcock Field.<sup>69</sup>
- E. No vehicle or trailer shall be parked in any area which has been officially designated as fire lane.
- F. No vehicle shall be parked in a handicapped designated zone unless such vehicle is owned and driven by a disabled veteran or handicapped person whose vehicle bears the distinctive number plates authorized by MGL c. 90, § 2, is transporting a handicapped person and displaying the special parking identification plate authorized by MGL c. 90, § 2, or is bearing the official identification of a handicapped person issued by any other state or any Canadian province. No vehicle shall park or stand on any part of any way under the control of the municipality in such manner as to obstruct any parking space reserved for such purpose. Vehicles in violation of this subsection may be removed as outlined in § 195-6 of this bylaw (MGL c. 40, § 22A to 22D).
- G. No vehicle shall be parked in any area which has been officially designated as a bus stop.
- H. With the exception of vehicles, trailers and vessels utilized by public safety personnel in the course of their duties, no vehicle trailer or vessel shall be parked in any area which violates the restriction of any sign, signal, or marking that has been officially posted at the Fisherman's Landing boat ramp, or in violation of the provisions outlined within the Code of Massachusetts Regulations, 320 CMR 2.00, as amended. The Police Department shall have the authority to enforce these regulations pursuant to the land management agreement entered on the 4th day of February 1994 between the Commonwealth of Massachusetts and the Town of Holland (320 CMR 2.00).<sup>70</sup>
- I. Violators may be liable to a penalty for each and every violation outlined in this article.

#### **§ 195-8. Temporary restrictions.**

- A. In order to eliminate the impediment of the operation of the removal or plowing of snow or ice, from the dates of November 1 through March 31, no vehicle shall be parked on any way or any portion thereof. Vehicles in violation of this section may be removed as outlined in § 195-6 of this bylaw (MGL c. 40, § 22D).
- B. The Chief of Police, or other officers within the Police Department as he/she may from time to time designate, shall be authorized to close temporarily, without notice, any portion of any way or any portion of any property under the control of the Town and/or prohibit

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69. Editor's Note: Original Sec. 9.2.4.5, which immediately followed this subsection, was repealed 10-3-2017.

70. Editor's Note: Amendment pending.



temporarily, without notice, the parking of any vehicle or trailer on any portion of any way or on any property under the control of the Town in preparation of an impending emergency; during an existing emergency; for lawful assemblage, demonstration or procession; or in the event of extraordinary circumstances, such as, but not limited to, severe weather events, provided there is reasonable justification for such restriction (MUTCD, current edition).

**§ 195-9. Compliance with traffic direction.**

- A. It shall be the duty of officers designated by the Chief of Police to enforce the provisions of these rules. Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provision of these rules. In the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these rules (MUTCD, current edition).<sup>71</sup>
- B. The operator of any vehicle or bicycle shall obey the instructions of any official traffic control sign, signal device, marking or legend, unless otherwise directed by a police officer (MUTCD, current edition).

**§ 195-10. Exemptions.**

The provisions of these rules and orders shall not apply to public safety personnel and other select municipal employees engaged in the performance of their duties, operators engaged in work upon any way closed to travel or under construction or repair, and contractors performing work, provided they have approval from the Chief of Police or his/her designee, and the appropriate work zone safety measures have been taken. When the nature of these functions necessitates a departure from any part of these rules and orders, these exemptions shall not, however, protect these individuals from the consequences of any disregard of the safety of others (MUTCD, current edition).

**§ 195-11. Parking clerk/hearing officer.**

- A. The Select Board shall designate or appoint a parking clerk, who may also perform other municipal functions except police functions. The parking clerk shall be directly responsible to the Select Board and supervise and coordinate the processing of parking notices in the Town. The parking clerk shall have authority, subject to the approval of Select Board, to hire or designate such personnel and organize such divisions as he/she may deem necessary or contract, by competitive bidding, for such services subject to appropriation to carry out the provisions (MGL c 90, § 20A).
- B. The parking clerk or hearing officer shall, within 21 days of receipt of any material received by any person who challenges the validity of a parking violation, review the material and dismiss or uphold the violation and notify, by mail, the alleged violator of the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the parking clerk or hearing officer shall explain the reasons for the outcome on the notice. Such review and disposition handled by mail shall be informal, the rules of evidence shall not apply, and the decision of the parking clerk shall be final subject to judicial review as provided by MGL 30A, § 14 (MGL c. 90, § 20A).

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71. Editor's Note: Amendment pending.

**§ 195-12. Violations and penalties. [Amended 10-3-2017]**

- A. Provisions for the noncriminal disposition of violations of the regulations are outlined in Article II of this bylaw (MGL c. 40, § 21D; MUTCD, current edition).

Article	Section	Description of Violation	Fine Amount
Article II	§ 195-7D	Interfering with traffic device	\$20
Article II	§ 195-6	Obstruction of traffic device	\$20
Article II	§§ 195-7 and 195-8	Display of unofficial traffic device	\$20

- B. Provisions for the disposition of violations of the parking regulations are outlined in this document.

Section	Subsection	Description of Violation	Fine Amount
§ 195-7	A, B	Obstruction of a way	\$25
§ 195-7	C	Abandoned vehicle or trailer	\$25
§ 195-7	D, E	Parking zone restriction	\$25
§ 195-7	F	Handicapped zone restriction	\$300
§ 195-7	G	Bus stop zone restriction	\$100
§ 195-7	H	Fisherman's Landing restriction	\$100
§ 195-8	A, B	Temporary restrictions	\$25

**§ 195-13. Disposition and adjudication of fines. [Amended 11-20-2013]**

- A. The schedule of fines for the violation of parking regulations shall be uniform for the same offense committed in the same zone or district, if any, and shall not exceed \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided, and \$50 if paid thereafter; however, the penalty for the violation of parking a motor vehicle within a posted bus stop shall be \$100 (MGL c 90, § 20A).
- B. The penalty for violation of a handicapped zone restriction shall be \$300 (320 CMR 2.00).<sup>72</sup>
- C. The penalty for the violation of the restrictions of Fisherman's Landing boat ramp shall be \$100 (320 CMR 2.00).<sup>73</sup>
- D. The authorized notice affixed to a motor vehicle as provided in this section shall be deemed a sufficient notice, and a certificate of the officer affixing such notice that it has been affixed thereto, in accordance with this section, shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein. (MGL c. 90, § 20A).
- E. Any person notified to appear before the parking clerk may appear before such parking clerk or his/her designee and confess the offense charged, either personally or through an

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72. Editor's Note: Amendment pending.

73. Editor's Note: Amendment pending.

agent duly authorized, in writing, or by mailing to such parking clerk the notice and the fine provided herein. (MGL c. 90, § 20A).

- F. Any person notified to appear before the parking clerk without waiving his/her right to a hearing before the parking clerk or hearing officer and also without waiving judicial review as provided by MGL c. 30A, § 14, may challenge the validity of the parking violation notice and receive a review and disposition of the violation from the parking clerk or a hearing officer by mail. The alleged parking violator may, upon receipt of the notice to appear, send a signed statement explaining his/her objections to the violation notice as well as signed statements from witnesses, police officers, government officials and any other relevant parties. Photographs, diagrams, maps and other documents may also be sent with the statements. Any such statements or materials sent to the parking clerk for review shall have attached the person's name and address, as well as the ticket number and the date of the violation (MGL c. 90, § 20A).
- G. Failure to properly dispose of violations in accordance with law may result in notification from the parking clerk to the Registrar of Motor Vehicles, who shall place the matter on record, which may result in the nonrenewal of the license to drive and the certificate of registration of the registered owner (MGL c. 90, § 20A).
- H. All fine payments shall only be made by postal note, money order or check made out to the parking clerk. All payments submitted or appeal documents as outlined in § 195-13F of this bylaw shall be mailed to:

Office of the Parking Clerk  
Town of Holland  
27 Sturbridge Road  
Holland, MA 01521

ARTICLE III  
**Operation on Ice**

**§ 195-14. Vehicles prohibited. [Amended 9-1-1981]**

No cars or trucks shall operate on any Town-owned or Town-controlled waters where ice has formed.

**§ 195-15. Violations and penalties.<sup>74</sup>**

Violations of this article shall be punishable as provided in Chapter 1, § 1-4.

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**74. Editor's Note: Amendment pending.**

**Chapter 199****VEHICLES, JUNK OR ABANDONED**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 1-6-1970.**

**Amendments noted where applicable.]**

**§ 199-1. Restrictions.**

No person shall accumulate, keep, store, park, place, deposit or permit to remain on premises owned by him or under his control any dismantled, unserviceable, junked or abandoned motor vehicle unless he has a license to do so under the General Laws or the vehicle or vehicles are appropriately screened from view from neighboring lands, ways, or public highways. Whoever violates or continues to violate this bylaw after having been notified by registered mail of such violation shall be punished by a fine not in excess of \$20. Each week during which such violation is permitted to continue shall be deemed to be a separate offense.

**Chapter 211****WELLS**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 8-12-1976.**

**Amendments noted where applicable.]**

**§ 211-1. Permit required for well digging.<sup>75</sup>**

Before any well is dug or drilled, a permit must be obtained upon application to the Board of Health of the Town at an appropriate fee, and a member of the Board of Health will inspect the progress of the digging or drilling to ensure compliance with 105 CMR 400.000, the State Sanitary Code. Compliance with this section shall be a prerequisite to the issuance of a certificate of occupancy.

**Chapter 215****WETLANDS PROTECTION**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland 1-3-1995 as Ch. 15; amended 10-3-2017 STM by Arts. 10 to 35. Subsequent amendments noted where applicable.]**

**§ 215-1. Declaration of purpose.**

The Holland Conservation Commission (HCC) was formed in 1976 with the primary function of administering the rules and regulations of the Massachusetts Wetland Protection Act, MGL c. 131, § 40, and regulations under 310 CMR 10.00. The Town of Holland hereby declares that it has interests in conservation issues that either are beyond the Act, are not specific enough in the Act or must be more clearly defined by its bylaws. The purpose of this chapter is to protect the wetlands, related water resources, wildlife habitat and the entire watershed area in the Town of Holland by controlling activities deemed by the HCC likely to have a significant or cumulative adverse effect upon the resource areas and the watershed area and deemed important to the

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**75. Editor's Note: Amendment pending.**

community (collectively, the "resource area values protected by this chapter"). This chapter uses the Town's home rule authority to protect resource areas and values and establish standards and procedures in addition to those of the Wetlands Protection Act.

#### **§ 215-2. Jurisdiction.**

Except as permitted by the HCC or as provided by this chapter, no person or persons shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter resource areas within 100 feet (referred to as the "buffer zone") of any lakes, ponds, marshes, creeks, streams, brooks, swamps, vernal pools, banks (at the normal high-water mark), or other areas specified in 310 CMR 10.02(1)(a), and within the 200-foot riverfront area corridor on each side of a perennial stream.

#### **§ 215-3. Conditional exceptions.**

- A. The application and permit required by this chapter shall not be required for maintaining, repairing or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunications services, provided that written notice has been given to the HCC prior to the commencement of work and provided that the work conforms to performance standards and design specifications in regulations adopted by the HCC.
- B. The permit and application required by this bylaw shall not apply to emergency projects necessary for the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or the Town of Holland for the limited purposes necessary to abate the emergency.

#### **§ 215-4. Application.**

- A. Written application shall be filed with the HCC to perform activities affecting the areas protected by this chapter.
- B. The HCC may deny permission for proposed activities within its jurisdiction if, in its judgment, such denial is necessary to preserve the environmental quality and to protect the wetlands, related water resources, wildlife habitat and the entire watershed area in the Town.
- C. The HCC may, as an alternate to denial, impose such conditions as it deems necessary in accordance with the purpose of this bylaw and may issue an order of conditions for the proposed activity to proceed.

#### **§ 215-5. Application requirements.**

- A. A plot plan of the area in which the project is to be executed, showing the map, block and lot number of the property, the street address, an accurate position of the project with dimensions, distances to property lines, septic systems and wells.
- B. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw.
- C. A signed, written, accurate description of the project, including method of construction,

materials to be used, machinery involved, time frame for construction, mitigating measures and site access, is to be submitted.

- D. A request for determination of applicability (RDA) is to be filed for small projects within the buffer zone or resource area that have minor impact; applicants, prior to completing the form, are to review the HCC or MassDEP information sheet specific to filing an RDA.
- E. Larger projects involving significant work generally require filing a notice of intent (NOI). An "NOI" is a more detailed permit application requiring professionally engineered plans, an order of conditions, notification of abutters and a public hearing. Applicants, prior to completing the form, are to review the HCC or MassDEP information sheet specific sheet specific to filing an NOI.
- F. In applications involving walls or structures, plan and side elevations with dimensions must be included.
- G. RDA or NOI applications should be received by the HCC at least 14 days prior to the desired public meeting or hearing date.
- H. For an NOI, filings to the HCC and the Department of Environmental Protection (DEP) must be made at the same time and be identical in content.
- I. The application must be a signed, written, accurate description of the project showing the map, block and lot number of the property and the street address. As appropriate, include method of construction, materials to be used, machinery involved, time frame for construction, mitigating measures and site access, a plot plan of the area in which the proposed project is to be executed, an accurate position of the project with dimensions, distances to property lines, septic systems and wells.
- J. No applications will be accepted as complete unless and until all information requested is clearly and properly submitted.
- K. Two copies of all paperwork and documents must be submitted, in addition to those required by the DEP.
- L. All applications must be presented in person at a regularly scheduled posted meeting of the HCC by the property owner or person duly authorized by the property owner.
- M. All applications are reviewed under the rules and regulations of the Massachusetts Wetlands Protection Act, the provisions of this chapter and the regulations of the HCC.
- N. The HCC may require that the applicant pay the full cost of the services of any consultant hired by the HCC in connection with the application.
- O. No work shall be initiated until an application has been approved by the HCC and all permits have been issued by the appropriate board or entity, if required.
  - (1) A determination of applicability issued by the HCC within 21 days of receipt of a written request for determination. A determination may be negative or positive and appropriate further action may be taken; or
  - (2) All requirements of an NOI application must be met, including but not limited to the order of conditions issued by the HCC.

**§ 215-6. General provisions.**

- A. No person shall cause any solid or liquid matter, other than stormwater drainage, to be dumped, poured, thrown or otherwise introduced into a water body or wetland resource area.
- B. No structure of any kind is to be built below the general high-water mark of any water body or over the water without the approval of the HCC.
- C. No person may extend their property by means of filling or other method beyond the existing high-water mark of a water body. No retaining wall shall be placed below the high-water mark of any water body.
- D. No person may cut down any tree within the buffer zone over 10 feet in height or six inches in trunk diameter five feet above ground unless permission has been received from the HCC.
- E. All forest cutting or logging operations within a wetland resource area must have received prior approval from the HCC.
- F. No person may carry out work on a property that causes, in the opinion of the HCC, substantial erosion and subsequent siltation of a wetland resource area.
- G. Only phosphate-free products may be used within the buffer zone.<sup>76</sup>
- H. The applicant shall inform the HCC, in writing, of the termination of work at the project and request a certificate of compliance (COC). Following a site visit, if required, and provided all requirements under the application have been met, the HCC shall issue the COC.
- I. The HCC is authorized to propose and adopt such rules and regulations as it sees fit to effectuate the purposes of this chapter.
- J. Where a project proposed by an applicant requires a permit or other authorization from any other Town official or board for which a public hearing is required, the HCC is authorized, with the agreement of the applicant and the cooperation of the other officials concerned, to schedule all required public hearings for the same date for the convenience of all parties.

**§ 215-7. Violations and penalties; enforcement.**

- A. The HCC, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make such examinations, surveys or sampling as the Commission deems necessary.
- B. The HCC may proceed against any person violating any provision of this chapter, or any decision or regulation of the HCC pursuant to this chapter, by recommending civil and criminal court actions to the Select Board. The authority to involve Town Counsel in civil or criminal court actions shall remain exclusively with the Select Board.
- C. Any person who, after being issued an enforcement order, continues to violate this chapter regulations thereunder or permit issued thereunder shall be subject to a fine of \$100. Each

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76. Editor's Note: Original Subsection 15.6.8, which immediately followed this subsection, was repealed 10-3-2017 STM by Art. 29.



day such violation continues after notice to the party concerned shall constitute a separate violation subject to a fine of \$100 per day.

- D. In the alternative to criminal prosecution, the HCC may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.
- E. The late fee associated with applications filed after work has been started or completed, or as the result of a violation and/or enforcement action, shall be \$200 in addition to all the normally incurred fees.<sup>77</sup>

## **Chapter 240**

### **ZONING**

**[HISTORY: Adopted by the Town Meeting of the Town of Holland, as amended through 11-20-2013.<sup>78</sup> Subsequent amendments noted where applicable.]**

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**77. Editor's Note: Amendment pending.**

**78. Editor's Note: Prior historical notations have been retained at the request of the Town.**

ARTICLE I

**Purpose**

**§ 240-1.0. Purpose.**

- A. To promote the health, safety, convenience and general welfare of its inhabitants, to lessen the danger from fire and congestion, and to improve the Town under the provisions of the General Laws, Chapter 40A, the use, construction, repair, alteration and height of buildings and structures and the use of premises in the Town of Holland, Massachusetts, are hereby restricted and regulated as hereinafter provided.
- B. It is the further purpose of this bylaw to:
  - (1) Permit and encourage flexibility and creativity in the design of residential developments, provided that the overall density of any development is no greater than that permitted by strict application of the dimensional requirements of Article V of this bylaw.
  - (2) Encourage the permanent preservation of open space, forest and agricultural lands and other natural resources.
  - (3) Avoid excessive deforestation with its consequent adverse environmental impact.
  - (4) Facilitate the planning and construction of streets, utilities and public services in an economical and efficient manner.
  - (5) Avoid increasing the extent to which enlargement of preexisting structures on nonconforming lots detracts from the density standards established hereby.

## ARTICLE II

**Definitions****§ 240-2.0. Definitions and word usage.**

- A. For the purpose of this bylaw, certain terms or words used herein shall be interpreted and defined as follows: The present tense includes the future, the singular includes the plural. The word "used" or "occupied" shall be construed to include "intended," "arranged," or "designed to be used or occupied"; the word "structure" shall include the word "building." The term "shall" is always mandatory.

- B. In this bylaw, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

**ACCESSORY BUILDING** — An enclosed structure containing no living accommodations, including, but not limited to, garage, woodshed, toolshed, noncommercial greenhouse, boathouse or similar structure, and the use of which is subordinate and incidental to that of a principal building.

**ACCESSORY DWELLING UNIT** — "Accessory dwelling units" are secondary housing units within, attached to or on the property of an existing single-family home.

**ACCESSORY USE** — The use of a building or premises for a purpose customarily incidental to the main or principal use permitted in the district.

**ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For the purposes of this definition, "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject premises' gross floor area, or 200 square feet, whichever is greater.

**ADULT ENTERTAINMENT ESTABLISHMENT** — For the purposes of this bylaw, "adult entertainment establishment" shall be defined as any of the following: adult bookstore, adult motion-picture theater, adult paraphernalia store, adult video store, and adult live nudity establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in MGL c. 272, § 31. For the purposes of this definition, an "adult entertainment establishment" is any use or combination of uses which either have greater than 25% of the subject establishment's inventory stock; or 25% of the subject premise's gross floor area or 200 square feet, whichever is greater, devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.<sup>79</sup>

**ADULT LIVE NUDITY ESTABLISHMENTS** — Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in MGL c. 272, § 31.

**ADULT MOTION-PICTURE THEATRE** — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

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79. Editor's Note: Amendment pending.

**ADULT PARAPHERNALIA STORE** — An establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject's premise's gross floor area, or 200 square feet, whichever is greater.

**ADULT VIDEO STORE** — An establishment having a substantial or significant portion of its stock-in-trade videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For the purposes of this definition, "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject premise's gross floor area, or 200 square feet, whichever is greater.

**AGRICULTURE** — The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats of any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur-bearing animals; trees and forest products; fruits of floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.<sup>80</sup>

**ALTERATION** — A change in or addition to a structure.

**ANIMALS, COMPANION** — Small breed mammals, rodents, birds and reptiles that have a special and close relationship with humans, are partially or totally dependent on people, live inside a residence in close proximity with humans, form bonds with people, and interact with their human companion. Common examples include dogs, cats, gerbils, and some birds. Companion animals are permitted in all zoning districts.\*[Added 11-20-2013 STM by Art. 11]

**ANIMALS, EXOTIC** — Include breeds of animals that are uncommonly found as either companion animals or livestock. These breeds are often not indigenous, are undomesticated, unusual in appearance, poisonous, and can be potentially dangerous if they escape into the wild. Examples include monkeys, apes, chimps, most snakes and reptiles, large birds, spiders and other insects.\*[Added 11-20-2013 STM by Art. 11]

**ANIMALS, FARM OR LIVESTOCK** — Breeds of animals primarily raised for commercial purposes on agricultural property, in outbuildings or open spaces separate from residences. Common examples include horses, cows, goats, sheep, pigs, poultry and alpacas.\*[Added 11-20-2013 STM by Art. 11]

**AS-OF-RIGHT SITING** — "As-of-right siting" means that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan approval to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the building official using 780 CMR and the Holland Zoning and General Bylaws, the Select Board, or person or board designated by local ordinance or

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80. Editor's Note: Amendment pending.

bylaw.

**ASSISTED LIVING** — The new housing and health care alternative combining independence with personal care in a warm, dignified, community setting.

**ATTIC** — A room or rooms in the upper part of a building, directly beneath the roof. An attic shall be considered a full story unless it has less than 5 1/2 feet of headroom over more than 25% of its floor area, in which case it shall be considered a half story.

**BED-AND-BREAKFAST ESTABLISHMENT** — A "bed-and-breakfast establishment" is a single-family dwelling having a mixed use as a home for the residential owner and as an accessory use for guest lodging. The home is to be the primary and legal residence of the owner.

**BUILDING** — A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. The word "building" shall be construed, where the context requires, as though followed by the words "or part or parts thereof." A porch is to be considered as a part of a building when considering setbacks.

**BUILDING LOT** — See definition of "lot, building" in this section.

**BUILDING, ACCESSORY** — See definition of "accessory building" in this section.

**BUILDING, PRINCIPAL** — See definition of "principal building" in this section.

**BUSINESS OR COMMERCE** — Engagement in the purchase, fabrication, assembly, sale, barter or exchange of goods, wares, merchandise or services, or the operation of recreational or amusement enterprises, or the maintenance or operation of offices related to such activities.

**CHILD-CARE FACILITY** — Any facility operated on a regular basis whether known as a "day nursery," "nursery school," "kindergarten," "child play school," "progressive school," "child development center," or "preschool," or known under any other name which receives children not of common parentage under seven years of age, or 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child-care facility shall not include any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care; an informal, cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor. **[Amended 11-20-2013 STM by Art. 11]**

**COMMUNITY FACILITIES** — Land and buildings owned, maintained and operated by a governmental or other chartered nonprofit organization, such as school, hospital, or church, but not including a membership club or public utility. **[Added 11-20-2013 STM by Art. 11]**

**CONGREGATE HOUSING FOR ELDERLY AND HANDICAPPED PERSONS** — A structure or structures arranged or used for the residence of persons primarily age 55 or older, or for handicapped persons, as defined in MGL c. 151B, with some shared facilities and services. **[Added 11-20-2013 STM by Art. 11]**

**DETACHED** — Separated from.

**DRIVE-IN EATING ESTABLISHMENT** — A commercial establishment wherein food is usually served to or consumed by patrons while they are seated in parked cars.**[Added 11-20-2013 STM by Art. 11]**

**DWELLING UNIT** — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This definition does not include a trailer, however mounted.

**DWELLING, SINGLE-FAMILY** — A detached building containing one dwelling unit and having no party wall or walls in common with an adjacent dwelling.

**DWELLING, TWO-FAMILY** — A detached building containing two dwelling units.

**ELDER CARE HOME** — A private residence where care, protection and supervision are provided for a fee at least twice a week to no more than six adults over the age of 60 at one time, including participating elder adults living in the residence.**[Added 11-20-2013 STM by Art. 11]**

**ESSENTIAL SERVICES** — Services and appurtenant equipment and installations provided by public utility or governmental agencies through underground or overhead gas, electrical, telephone, cable, internet, sewerage, drainage, refuse, water, traffic, fire and police systems. Specifically excluded from this definition are buildings or overhead transmission towers.**[Added 11-20-2013 STM by Art. 11]**

**FAMILY DAY-CARE HOME** — Any private residence which on a regular basis receives, for temporary custody and care during part or all of the day, children under seven years of age or children under 16 years of age if such children have special needs; provided, however, that in either case the total number of children shall not exceed state standards, including participating children living in the residence. "Family day-care home" shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives or the occasional care of children with or without compensation therefor.

**FARM** — A parcel of one or more lots under one ownership or lease used for the primary purpose of agriculture, horticulture, floriculture or viticulture. Neighboring lots divided by a private or public way and under common operation shall be construed as one farm.

**FARM BUSINESS** — A business established for the production, processing and/or sale of farm products.

**FARM STAND** — Stand established for the display or sale of farm products. During the months of June, July, August, and September, 50% by volume of products sold must have been raised or produced on the premises or elsewhere in the Commonwealth of Massachusetts.**[Amended 11-20-2013 STM by Art. 11]**

**FENCE** — A human-made barrier intended to prevent escape or intrusion, or intended to mark a boundary. Shrubs and/or shrubbery shall not constitute a fence for the purpose of this provision. Fences are considered accessory structures for the purpose of this bylaw.

**FRONT LOT LINE** — See definition of "lot line, front" in this section.

**FRONT YARD** — See definition of "yard, front" in this section.

**FRONTAGE** — The linear distance of a lot fronting on a street measured continuously along one line between its side lot lines and their intersection with the street line.

**GARDEN APARTMENT** — Multifamily dwelling units of moderate height and attractive landscaping, presenting pleasant, safe and healthy living space.

**GREENHOUSE** — A building whose roof and sides are made largely of transparent or translucent material, used for the cultivation of plants for subsequent sale or personal enjoyment.

**HEIGHT** — In reference to a building, the vertical distance between the highest point of the roof and the average grade of land at the foundation of the primary foundation on which the building is located.

**HOTEL** — A building operated by a duly licensed inn holder where lodging is provided and food may be served to transient or permanent guests.

**HOUSING FOR THE ELDERLY/SENIOR APARTMENTS** — Multifamily dwelling units occupied by persons primarily 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age. The housing must be self-contained and physically accessible to elderly citizens.**[Added 11-20-2013 STM by Art. 11]**

**LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, with a minimum nameplate capacity of 250 kW DC.

**LIFE CARE FACILITY** — A facility for the transitional residency of elderly and/or disabled persons progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.**[Added 11-20-2013 STM by Art. 11]**

**LOT** — An area of land in one ownership, with definite boundaries.

**LOT LINE, FRONT** — The lot line separating a lot from a street right-of-way. (See Diagram 2.1.<sup>81</sup>)

**LOT LINE, REAR** — The lot line opposite the street line, except that in case of a corner lot, the rear line shall be the line opposite the street line of the street on which the building is numbered or would be numbered. (See Diagram 2.1.)

**LOT LINE, SIDE** — The line dividing one lot from another. (See Diagram 2.1.)

**LOT, BUILDING** — A parcel of land in one ownership meeting the dimensional requirements of this bylaw for the district in which such land is situated, meeting the minimum yard requirements of that district, and defined on a plan or a deed recorded in the Registry of Deeds.

**MAJOR SUBDIVISION** — A subdivision of five or more individual lots.

**MARINA** — A small harbor or boat basin providing dockage, supplies and services to small pleasure craft.

**MOBILE HOME** — A residential living unit, built on a chassis, and containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or permanent foundation for permanent living.

**NET DEVELOPABLE ACRES** — The total area of a property proposed as the site of a major subdivision, less all areas identified as wetland resource areas by the Conservation Commission in accordance with the provisions of the Wetlands Protection Act, MGL c. 131, § 40.

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**81. Editor's Note: Diagram 2.1 is on file in the Town office.**

NFPA — The National Fire Protection Association.

NURSERY — A farm specializing in raising flowers, shrubs, trees and other plants for sale.

ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

OPEN SPACE COMMUNITY — A residential subdivision in which individual lots smaller and having less frontage than required by Article V of this bylaw may be permitted on condition that the provisions of MGL c. 40A, § 9, relating to open space residential development, and the rules and regulations pertaining to subdivisions promulgated by the Holland Planning Board are complied with.<sup>82</sup>

PARKING AREA — Any open space used for parking motor vehicles.

PARTY WALL — A wall common to but dividing contiguous buildings; such a wall contains no openings and extends from its footing below the finished ground grade to the height of the exterior surface of the roof.

PRIMARY STRUCTURE — 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.

PRINCIPAL BUILDING — The main or most important building on a lot.

PRINCIPAL USE — The primary or predominant use of any lot.

PROFESSIONAL OFFICE — The office of a recognized profession maintained for the conduct of that profession, a "profession" being something that requires specific training and is regulated by certain standards.[Added 11-20-2013 STM by Art. 11]

PROJECT AREA — Any plot of land of whatever size, under one ownership, to be used for development purposes.

PUBLIC RECREATION USE — A recreation use or facility operated by a government agency and open to the general public.[Added 11-20-2013 STM by Art. 11]

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

REAR LOT LINE — See definition of "lot line, rear" in this section.

REAR YARD — See definition of "yard, rear" in this section.

RESEARCH OFFICES — A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.[Added 11-20-2013 STM by Art. 11]

RESTAURANT — A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state in individual servings or in nondisposable containers and where the customer consumes these foods while seated at tables or counters located within the building.[Added 11-20-2013 STM by Art. 11]

RESTAURANT, FAST-FOOD — An establishment that offers quick food service which is accomplished through a limited menu of items already prepared and held for service or

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82. Editor's Note: Amendment pending.



prepared, fried, or grilled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers. **[Added 11-20-2013 STM by Art. 11]**

**SCHOOL** — A building devoted to the instruction or education in primary, secondary, high school or post-secondary grades, or providing specialized training in particular subjects or trades.

**SELF-SERVICE STORAGE FACILITY** — A building where storage units are rented and pickup and deposit of property shall be allowed. No flammable liquids or explosive or hazardous materials shall be stored. No servicing or repair of any engines of any type is allowed. No storage of motor vehicles, boats, or similar equipment is allowed.

**SETBACK** — The minimum distance from a lot line to a building placed thereon, or feature thereof, as is required in a particular situation by Article V, Table 2, hereof. Said setback shall be measured perpendicular (at right angles) to the lot line. At no point shall any structure on the lot be any closer to any street line, whether said street line directly abuts the lot or not, than the minimum front yard requirements for that zoning district. (See Diagram 2.1.<sup>83</sup>)

**SETBACK LINE** — A line, whether straight or not, parallel to a lot line, which denotes the location of the minimum setback.

**SETBACK, FRONT** — Setback required from a front lot line and from any street line of a corner lot or through lot, or from any driveway where no street exits. (See Diagram 2.1 at the end of this section.<sup>84</sup>)

**SETBACK, REAR** — Setback required from a rear lot line. (See Diagram 2.1.)

**SETBACK, SIDE** — Setback required from a side lot line. (See Diagram 2.1.)

**SIDE LOT LINE** — See definition of "lot line, side" in this section.

**SIDE YARD** — See definition for "yard, side" in this section.

**SIGN** — Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

**SIGN, POLITICAL** — A noncommercial sign erected to show support for a candidate for public office or to express an opinion.

**SITE PLAN** — A plan meeting the requirements specified in Article VIII, Special Permits, Site Plan Review and Approval, of this bylaw.

**SITE PLAN APPROVAL** — Review by the Planning Board to determine conformance with local zoning ordinances or bylaws. The purpose of the site plan review is to determine that the use complies with all requirements set forth in this Zoning Bylaw and that the site design conforms to established standards regarding landscaping, access, and other zoning provisions.

**SOLAR PHOTOVOLTAIC ARRAY** — An arrangement of solar photovoltaic panels.

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83. Editor's Note: Diagram 2.1 is on file in the Town office.

84. Editor's Note: Diagram 2.1 is on file in the Town office.

**SPECIAL PERMIT** — A permit issued by a special permit granting authority pursuant to provisions of this bylaw and of Section 9 of the Zoning Act<sup>85</sup> to permit uses, structures or structural alterations which are in harmony with the general purposes of this bylaw and which shall be subject to general of specific provisions as therein set forth and to conditions, safeguards and limitations which may be imposed by the special permit granting authority.

**SPECIAL PERMIT GRANTING AUTHORITY** — The Zoning Board of Appeals or the Planning Board, as specified in Article VIII hereof.<sup>86</sup>

**STORY** — The horizontal portion through a building between floor and ceiling. The word "story" shall not include the portion of the basement or cellar of a building above grade.

**STREET** — A way, regardless of its legal status, which is physically in existence and used by members of the public for the passage of vehicles.

**STREET LINE** — The dividing line between a street and a lot, including street lines established by the public authority laying out the street upon which the lot abuts.

**STRUCTURE** — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent reviewing stand, platform, bin, fence, sign, flagpole, mast for radio antenna, or the like. The word "structure" will be construed, where the context allows, as though followed by the words "or part or parts thereof."

**STRUCTURE, ATTACHED** — A building having any portion of one or more walls in common or within ten feet of an adjacent building.

**STRUCTURE, DETACHED** — A building having 10 feet or more of open space on all sides.

**SUBDIVISION** — As defined in MGL c. 41, § 81L.

**TRAILER** — RV trailer.<sup>87</sup>

**USE** — The purpose or activity for which land or buildings are occupied or maintained.

**VARIANCE** — A decision of the Zoning Board of Appeals permitting a departure from the literal terms of this bylaw in circumstances and upon conditions defined by MGL c. 40A, § 10, and by § 240-9.0A(3) hereof.

**WATER** — Supplemental water supply, the storage of water, on site, for fire control use.

**YARD** — A required open space, unoccupied except as herein permitted, between a principal building and a street or lot line.

**YARD, FRONT** — The minimum required unoccupied space or area between the street line and the front setback line, such unoccupied space or area extending the entire width or distance across the lot.

**YARD, REAR** — The required unoccupied space or area within the lot between the rear lot line and the rear setback line.

**YARD, SIDE** — The required unoccupied space or area within the lot between the side lot

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85. Editor's Note: See MGL c. 40A, § 9.

86. Editor's Note: Amendment pending.

87. Editor's Note: Amendment pending.

line and the side setback line.

\*Animals mentioned in these categories are for illustrative purposes only. Determination of the classification will be based on how the animals are actually used.

ARTICLE III  
**Establishment of Districts**

**§ 240-3.0. Types of districts.**

- A. For purposes of this bylaw the Town of Holland, Mass., is hereby divided into the following types of use districts.<sup>88</sup>

Short Name	Full Name
AR	Agricultural-Residential
R	Residential
GA	Garden Apartment
B	Business
RB	Rural Business
FP	Floodplain
C	Commercial
WCF	Wireless Communications Facilities Overlay District

- B. District purposes. **[Added 11-20-2013 STM by Art. 12]**

- (1) Agricultural-Residential. To accommodate agriculture, horticulture, or floriculture as well as single-family dwellings at lower densities while providing protection for environmentally sensitive areas, agricultural resources and other similar lands.
- (2) Residential. To provide for residential neighborhoods of medium to higher density in areas both near the Town Center and around the Hamilton Reservoir.
- (3) Garden Apartment. Each "project area" as herein after defined, in a Garden Apartment District shall be used exclusively for the erection and maintenance of apartment dwellings which shall be subject to the provisions of § 240-6.0 to the end that pleasant, open, safe, healthy, and presentable multifamily dwelling units of moderate and attractive landscaping may be available for residential use.
- (4) Business. To accommodate a wide range of retail uses and services and commercial activities in appropriate locations along primary roads within the Town and provide for the appropriate development and special requirements for the major business concentrations which serve an area larger than the immediate neighborhood.
- (5) Rural Business. To accommodate very low-intensity retail, office, and light industrial land uses.
- (6) Commercial. A general commercial zone which provides for the sale of commodities or performance of services, including repair facilities, offices, small wholesale stores or distributors and limited processing and packaging.
- (7) Floodplain. Floodplain is an overlay district which supersedes the requirements of the

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**88. Editor's Note: Amendment pending.**

underlying districts (see § 240-6.1). It consists of those geographical areas which by virtue of their relationship to components of the natural hydrology of the Town of Holland have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution and in general are essential to public health, safety, and welfare. To this end, the number and types of uses allowed are restricted.

**§ 240-3.1. Zoning Map.**

Said districts are located and bounded as shown on a map entitled "Zoning Map of Holland, Massachusetts," adopted September 5, 1995, and on file in the office of the Town Clerk. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this bylaw.

**§ 240-3.2. Zoning Map interpretation.**

For purposes of interpretation of the Zoning Map, the location of the boundary lines of the districts shown upon the Zoning Map shall be determined as follows:

- A. Zoning district boundaries which follow streets, railroads, utility lines, utility easements, or watercourses shall be deemed to coincide with the mean center line thereof.
- B. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of the property, lot, or boundary lines is not indicated by means of figures, then the property or lot lines shall be the boundary lines.
- C. In all cases which are not covered by the other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or, if none are given, then by the scale of said map.

# ARTICLE IV

## Use Regulations

### § 240-4.0. Permitted uses.<sup>89</sup>

- A. Except as provided in Article IV hereof, no building shall be constructed and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted as of right in the district in which such building, structure or land is located or set forth as according to Table 1, Holland Schedule of Principal Uses. Uses permitted and uses permitted by special permit shall be in conformity with all intensity regulations and any other pertinent requirements of this bylaw.
- B. The following abbreviations are used in Table 1: **[Amended 11-20-2013 STM by Art. 12; 11-17-2020 STM by Art. 22]**

Y	Yes; Use permitted as of right.
SP	Use allowed by special permit granted by the Planning Board.
ZBA	Use allowed by special permit granted by the Zoning Board of Appeals.
PA	Site plan approval.
N	No: Use prohibited.

All uses that are not listed in the Table of Uses are considered prohibited by the Town of Holland. This can be in the text of the bylaw or as part of the actual table.

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
<b>Agricultural</b>							
Agriculture, horticulture, floriculture, viticulture, aquaculture on parcels of land 5 acres or more, including:							
a. Commercial livestock, dairy, poultry farm		Y	Y	Y	Y	Y	Y
b. Farm business, commercial greenhouse	b. See definition of "farm business"	Y	Y	Y	Y	Y	Y
c. Farm stand	c. For the sale and display of farm products, 50% of farm products must have been raised on the premises or elsewhere in the Town	Y	Y	Y	Y	Y	Y
d. Commercial riding stable		Y	Y	Y	Y	Y	Y
e. Tree farm, nursery		Y	Y	Y	Y	Y	Y
Except for:							

89. Editor's Note: Amendment pending.

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
f. Raising of swine and fur-bearing animals		Y	PA	PA	PA	PA	PA
Agriculture, horticulture, floriculture, viticulture, aquaculture uses on parcels of land less than 5 acres, except for:							
a. Commercial livestock, dairy, poultry farm		Y	SP	N	SP	Y	Y
b. Farm business, commercial greenhouse	b. See definition of "farm business"; see Article VIII for special permit standards	Y	N	N	N	N	N
c. Farm stand	c. For the sale and display of farm products, 50% of farm products must have been raised on the premises or elsewhere in the Commonwealth of Massachusetts	Y	N	N	Y	Y	Y
d. Commercial riding stable	d. See Article VIII for special permit standards	Y	N	N	SP	SP	SP
e. Tree farm, nursery	e. See Article VIII for special permit standards	Y	SP	N	SP	Y	Y
f. Raising of swine and fur-bearing animals		Y	N	N	N	N	N
Raising and keeping of horses which:							
a. Complies with all of the standards and conditions	A minimum of 2,000 sf of fenced riding/keeping area (exclusive of any stable/housing area) for one horse, plus 500 sf for each additional horse, is required. Said area shall have a minimum setback of 15 feet from any lot line.	Y	Y	Y	Y	Y	Y
b. Does not comply with all of the standards and conditions	Horses shall be restricted from areas containing wells and septic systems (including leaching area)	Y	SP	SP	SP	SP	SP
	Stable/housing areas and manure piles must be kept at least 100 feet away from any well						

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
Commercial or noncommercial kennels or veterinary hospital	Parcel must be 5 acres or more in size. All animals must be completely enclosed in pens or other structures at least 25 feet from any residential lot lines.	N	N	N	N	SP	SP
<b>Residential</b>							
One-family detached dwelling		Y	Y	Y	Y	Y	Y
Two-family dwelling		SP	Y	Y	Y	Y	Y
Accessory dwelling unit	See § 240-6.7	SP	SP	SP	SP	SP	N
Multifamily dwelling/garden apartment	See § 240-6.0 for special permit standards	N	N	SP	N	N	N
Open space community	See § 240-6.4 for special permit	SP	SP	N	N	N	N
Assisted living	See § 240-6.5	SP	N	N	N	N	N
<b>Community Facilities</b>							
Church or other religious purpose		Y	Y	Y	Y	Y	Y
Educational institution		Y	Y	Y	Y	Y	Y
Child-care facility	See definitions	N	N	N	SP	SP	SP
Nonprofit recreational facilities, including country, tennis and hunting club		SP	N	N	N	N	N
Camp for children		SP	N	N	N	N	N
Cemetery		SP	N	N	N	SP	SP
Hospital or nursing home		N	N	N	SP	SP	N
Public utilities	Not involving manufacturing, except products which are sold on a retail basis directly from the producer to the consumer	N	N	N	SP	SP	SP
Place of amusement or assembly		N	N	N	Y	Y	Y
<b>Retail and Services</b>							



Table 1, Holland Schedule of Principal Uses							
Land Classification	Standards and Conditions	Zoning Districts					
		AR	R	GA	B	RB	C
Retail establishment selling principally convenience goods		N	N	N	SP	SP	SP
Retail establishment selling general merchandise	All display and sales to be conducted within the building	N	N	N	SP	SP	SP
Eating and drinking places		N	N	N	Y	Y	SP
a. Restaurant		N	N	N	Y	Y	SP
b. Drive-in restaurant	See definition of "drive-in restaurant"	N	N	N	Y	Y	SP
c. Fast-food restaurant	See definition of "fast-food restaurant"	N	N	N	Y	Y	SP
Establishments selling motor vehicles and/or accessories		N	N	N	SP	SP	SP
Hotels and motels		N	N	N	Y	Y	SP
Bed-and-breakfast establishment	See § 240-6.8	SP	SP	SP	SP	SP	SP
Bank or other personal and consumer service establishment		N	N	N	SP	SP	SP
Lumberyards		N	N	N	SP	SP	SP
Outdoor garden center		N	N	N	SP	SP	SP
Professional and business offices and services:							
a. Under 5,000 square feet		N	N	N	Y	Y	Y
b. 5,000 square feet or more		N	N	N	Y	Y	Y
Membership club							
a. Not conducted for profit		SP	SP	SP	SP	SP	SP
b. Conducted for profit		SP	SP	SP	SP	SP	SP

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
Health or fitness facility	May include overnight and boarding accommodations, employee/staff dwelling facilities (single or multi family dwelling) for employees, staff (both professional and non professional), directors and administrators of such health or fitness facilities limited to not more than one permanent dwelling per 10 acres, and all uses customarily ancillary or appurtenant thereto. "Permanent dwelling unit" shall mean any detached single-family dwelling unit or multiple-family dwelling units containing, within such unit, kitchen and toilet facilities and at least 300 square feet of living space.	N	N	N	Y	Y	Y
Automotive or other business repair services		N	N	N	SP	SP	SP
Gasoline sales and related services		N	N	N	SP	SP	SP
Self-service storage facility		N	N	N	SP	SP	SP
Marina		SP	N	N	N	N	N
Ski tow		N	N	N	SP	SP	SP
Golf course		SP	N	N	N	SP	SP
Conference center		N	N	N	Y	Y	Y
<b>Marijuana establishments</b>							
Craft marijuana cooperative	See § 240-7.11	SP	N	N	N	N	SP
Marijuana cultivator	See § 240-7.11	SP	N	N	N	N	SP
Marijuana product manufacturer	See § 240-7.11	SP	N	N	N	N	SP
Marijuana retailer	See § 240-7.11	N	N	N	SP	N	SP
Marijuana independent testing laboratory	See § 240-7.11	SP	N	N	N	N	SP

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
Marijuana microbusiness	See § 240-7.11	SP	N	N	N	N	SP
Marijuana research facility	See § 240-7.11	SP	N	N	N	N	SP
Marijuana transporter	See § 240-7.11	SP	N	N	N	N	SP
Medical marijuana treatment center	See § 240-7.11	SP	N	N	N	N	SP
<b>Wholesale, Industrial and Transportation</b>							
Processing earth products	See § 240-7.7	SP	N	N	N	SP	SP
Manufacturing	All operations shall confine smoke, fumes, dust and noise to the premises, and no operations shall be hazardous by reasons of potential fire, explosion or radiation	N	N	N	SP	SP	SP
Freight or trucking terminal	All operations shall confine disturbing smoke, fumes, dust and noise to the premises, and no operations shall be hazardous by reasons of potential fire, explosion or radiation	N	N	N	SP	N	SP
Wholesale trade and distribution	All operations shall confine disturbing smoke, fumes, dust and noise to the premises, and no operations shall be hazardous by reasons of potential fire, explosion or radiation	N	N	N	SP	SP	SP
Research office or establishments devoted to research and development of renewable or alternative energy		N	N	N	SP	SP	PA
Large-scale solar power generation	See § 240-6.9	N	N	N	N	N	PA
Wireless communication facility	See § 240-6.2	Y	N	Y	Y	Y	Y
Adult entertainment	See § 240-6.6	N	N	N	SP	N	SP
<b>Accessory Uses</b>							
Noncommercial earth removal	See § 240-7.7						

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
a. Less than 300 cubic yards		Y	Y	Y	Y	Y	Y
b. 300 cubic yards or more		SP	SP	SP	SP	SP	SP
Home occupation:	See § 240-6.3						
a. No nonresident employees		Y	Y	Y	Y	Y	N
b. One nonresident employee		Y	Y	N	Y	Y	N
c. More than one nonresident employee		SP	SP	N	SP	SP	N
Accessory building, swimming pool, toolshed, greenhouse, playhouse, gazebo, cabana, boathouse, or other similar structure for domestic use	See § 240-7.2	Y	Y	Y	Y	Y	Y
Family day-care homes having no more than two nonresident employees	Provided it shall occupy less than 40% of gross floor area and have a minimum of 75 square feet of outside play area for each enrolled child	Y	Y	Y	Y	Y	N
Family day-care homes having more than two nonresident employees	Provided it shall occupy less than 40% of gross floor area and have a minimum of 75 square feet of outside play area for each enrolled child	SP	SP	SP	SP	SP	N
Shelter for small animals commonly kept as pets	Animals shall be pets of residents of the property	Y	Y	Y	Y	Y	Y
Fallout shelter		Y	Y	Y	Y	Y	Y
Parking lot		N	N	N	Y	Y	Y
Accessory private garage/carport for not more than 3 vehicles, one of which may a commercial vehicle not exceeding 2 tons rated gross weight. Garages for exclusively agricultural use are exempt.	One of which may a commercial vehicle not exceeding 2 tons rated gross weight. Garages for exclusively agricultural use are exempt	Y	Y	Y	Y	Y	Y

Table 1, Holland Schedule of Principal Uses							
		Zoning Districts					
Land Classification	Standards and Conditions	AR	R	GA	B	RB	C
Garage	For more than 1 commercial vehicle or for any commercial vehicle exceeding 2 tons rated gross weight	N	N	N	Y	N	Y
Private swimming pool		Y	Y	Y	Y	Y	Y
Fences located in the front-yard portion of any lot which do not exceed four feet in height	See § 240-7.5A	Y	Y	Y	Y	Y	Y
Fences located in the side yard of rear yard portion of any lot which do not exceed six feet in height	See § 240-7.5A	Y	Y	Y	Y	Y	Y
Party-line fences	See § 240-7.5B	Y	Y	Y	Y	Y	Y
Renting of rooms, lodging units with no cooking facilities in an existing dwelling	No more than 4 tenants/boarders in a dwelling regularly occupied for residential purposes	Y	Y	Y	Y	Y	n
Accessory uses to a principal use permitted by right which is necessary in connection with the scientific research or scientific development or related products		N	N	N	SP	SP	PA
<b>Preexisting nonconforming uses or structures</b>							
Alteration, reconstruction, and/or change in use or structure	See § 240-7.0	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
Conversion of seasonal homes to year-round use	See § 240-7.3	Y	Y	Y	N	N	N

ARTICLE V  
**Dimensional Requirements**

**§ 240-5.0. Table of dimensional requirements.<sup>90</sup>**

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. Except in the Garden Apartment District, no more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 2 below.

Table 2, Dimensional Requirements								
District or Type of Development	Minimum Area Dimension (linear feet)					Max. Height of Buildings (d)		Max % Coverage Lot (including accessory buildings)
	Minimum Area Dimension	Frontage	Front Yard Setback	Side Yard Setback	Rear Yard Setback	No. of Stories	Feet	
	(a)(b)	(c)						
Lot Area (a)								
Residential	2 acres (h)	200	25	20	30	2.5	35	30
Residential (nonresidential uses)	2 acres	200	25	20	30	2.5	35	30
Agricultural-Residential	3 acres (i)	300 (i)	40	40	40	2.5	35	20
Agricultural-Residential (nonresidential uses)	3 acres (i)	300 (i)	25	10 (d)	30	2.5	35	30
Assisted living	Refer to details in § 240-6.5							
Garden Apartment (single family residential uses)	2 acres	200	25	20	30	2.5	35	30
Garden Apartment (garden apartment uses)	Refer to details in § 240-6.0							
Business (residential uses)*	1 acre	200	25	10(e)	20 (f)	2.5	35	40

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**90. Editor's Note: Amendment pending.**

Table 2, Dimensional Requirements								
District or Type of Development	Minimum Area Dimension (linear feet)					Max. Height of Buildings (d)		Max % Coverage Lot (including accessory buildings)
	Minimum Area Dimension	Frontage (a)(b)	Front Yard Setback (c)	Side Yard Setback	Rear Yard Setback	No. of Stories	Feet	
	Lot Area (a)							
Business (nonresidential uses)	8,000 square feet	50	15	20 (e)	20 (f)	3.0	40	60
Rural-Business (residential uses)*	2 acres	200	40	40 (e)	40 (f)	2.5	35	20
Rural-Business (nonresidential uses)	30,000 square feet	200	40	20 (e)	20 (f)	2.5	35	20
Commercial**	30,000 square feet	75	20	20 (g)	20 (g)	3.0	50	20
Open space community	2 acres	200	100	40 (e)	40 (f)(g)	3.0	50	20

## Footnotes to the preceding Table 2

- (a) Some "grandfathered" lots may be excepted from certain dimensional requirements of Table 2 by the provisions of the Zoning Act, MGL c. 40A, § 6, which reads in part:

"any increase in area, frontage, width, yard or depth requirements of a zoning . . . bylaw shall not apply to a lot for single and two family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and has less than the proposed [i.e., present] requirement but at least 5,000 square feet of area and 50 feet of frontage. Any . . . [such] increase. . . shall not apply for a period of five years from its effective date . . . 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 1st, 1976, and had less area, frontage, width yard or depth requirement than the . . . [present]. . . zoning requirement but contained at least 7,500 square feet of area and seventy five feet of frontage . . . and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership."

The text of Article VI should be consulted for provisions relating to situations not covered by the foregoing quotation.

The provisions of this article shall not be construed to prohibit a lot being built upon, if at the time of building, building upon such lot is not prohibited by the bylaws in effect in Holland.

- (b) Required frontage shall be measured on an accepted public way currently maintained as such, or on a private way which, as determined by a decision of the Planning Board, is in reasonably close conformity with the requirements for roads according to MGL c. 41, § 81L.
- (c) To be measured from the right-of-way line where a plan of the way is on file with Registry of Deeds or, in the absence of such plan, from a line 25 feet from and parallel with the center line of the traveled way.

## Footnotes to the preceding Table 2

- (d) The limitation on height of buildings shall not apply in any district to chimneys, ventilators, antennas or ornamental features containing no living accommodations.
  - (e) Side yard dimension will be 50 feet when adjacent to Residential District.
  - (f) Rear dimension will be 50 feet when adjacent to Residential District.
  - (g) Side and rear yard dimensions will be 50 feet when adjacent to Agricultural-Residential District.
  - (h) The July 28, 2005, Special Town Meeting modified the minimum lot area from 1 acre to 2 acres for the Residential District.
  - (i) Article 14 of the February 15, 2007, Special Town Meeting modified the minimum lot area from 2 acres to 3 acres and the frontage from 200 linear feet to 300 linear feet for the Agricultural-Residential District and Agricultural-Residential (nonresidential uses) development type.
- \* Maximum lot coverage shall be determined by dividing the total area enclosed by the outside perimeter of the foundation walls of all buildings and parking lots by the total area. Recreational facilities, such as tennis courts, pools, bicycle paths, running paths, volleyball courts, horseback riding trails, pedestrian foot paths and other recreational facilities and temporary enclosures therefor, shall not be included in the percentage lot coverage computation.
- \*\* There may be more than one building on each lot. There shall be at least 20 feet between buildings, provided that connecting corridors between buildings, covered walkways and other connector devices shall not be considered in measuring such distance for purposes of this section.



## ARTICLE VI

**Additional Regulations for Uses and Special Permits****§ 240-6.0. Garden Apartment District.****A. Permitted uses; major and accessory uses.**

- (1) In the Garden Apartment District, the major objective will be "project areas," defined as the erection of garden-type apartment buildings, and no other building or structure shall be erected, altered or used in these project areas for any purpose except for such apartment buildings or customary accessory uses, including private garages.<sup>91</sup>
- (2) No business, service or industry connected directly or indirectly with motor vehicles shall be carried on in any Garden Apartment District.

**B. Area regulations.**

- (1) Coverage of project area. The total area enclosed by the outside perimeter of the foundation walls of all buildings erected or altered on such area shall not cover more than 30% of the total project area in which they are located, excluding from such total area the total area of all streets furnishing access to any buildings located in such project area.
- (2) Total project area. The gross size of the project area shall be related to the number of apartments units and the number of bedrooms per unit and shall not be less than:
  - (a) Four thousand two hundred square feet of land area per dwelling unit for each unit with three or more bedrooms.
  - (b) Three thousand three hundred square feet of land area per dwelling unit for each one- or two-bedroom unit.
  - (c) Two thousand five hundred square feet of land area per dwelling unit for each efficiency or "no-bedroom" unit.

**C. Height requirements.**

- (1) Residential buildings. Residential buildings in a project area shall not exceed 2 1/2 stories in height above grade. Basement apartments are not permitted.<sup>92</sup>
- (2) Accessory buildings.
  - (a) Single-story accessory buildings shall not exceed 15 feet in height.
  - (b) Two-story: 25 feet in height.
  - (c) In no case shall the height of any accessory building exceed the height of residential building in any project area.

**D. Setbacks and distance between buildings for garden apartment use.<sup>93</sup>**

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91. Editor's Note: Amendment pending.

92. Editor's Note: Amendment pending.

93. Editor's Note: Amendment pending.

- (1) Buildings to lot and street lines.
    - (a) No portion of any building shall be closer than 50 feet to any lot line or Town line, or 20 feet from any street or driveway shown on a plan approved by the Planning Board.
    - (b) No portion of any building shall be closer than 40 feet to any exterior street line or street line of an interior through street.
    - (c) Generally, no rear wall of any building shall be more than 350 feet from any street or driveway shown on a plan approved by the Planning Board.
  - (2) Building to building. All residential buildings shall be at least 20 feet from each other, except that in no case shall two windowed walls facing one another be closer than 40 feet.
  - (3) Screening. When a building is 100 feet or less from any lot line, natural screening consisting of coniferous trees of a height no less than seven feet shall be used where no comparable screening exists originally.
- E. Courts. All courts shall have a minimum width of 10 feet as measured in a straight line at ground level and at right angles between the closest points of any walls or projections there from.
- F. Off-street parking.
- (1) Parking requirements. Off-street parking shall be provided at the rate of at least 1 1/2 parking spaces for each apartment.
  - (2) Location of parking. All parking shall be located:
    - (a) Not less than 40 feet from any building unless in conjunction with a garage or carport.
    - (b) Not less than 10 feet from any external street (each street on which a lot abuts).
    - (c) In the case of any internal street or drive providing access to more than 100 parking spaces, all parking spaces shall be physically separated from the paved street width by a curb, planting strip or other suitable barrier against unchannelized access or egress.
    - (d) In no case shall perpendicular or bay parking be permitted on the principal streets built to Town standards.
  - (3) Additional requirements. There shall be at least one area of open space large enough and centrally located so as to constitute a usable general recreation area for the inhabitants of the complex. This main recreation area shall have at least 20,000 square feet for each 50 units or portion thereof in the development.
- G. Access.
- (1) All streets furnishing access to any garden-type apartment building erected under the provisions of this section shall be provided in accordance with the applicable rules and regulations for the development of subdivisions of the Planning Board of the

Town of Holland.

- (2) The Planning Board shall determine what is adequate access to each building. This includes the construction characteristics of the ways. In no case shall a drive be less than 20 feet in paved width. Principal criteria to be considered in this site plan review are:
  - (a) The distance from each building to the nearest way providing access. Generally, no building shall be more than 300 feet from a street built to Town standards.
  - (b) Number of apartment units or parking spaces to be served by the way.
  - (c) Accessibility to fire and other emergency service vehicles and plowing and sanding vehicles.<sup>94</sup>

**§ 240-6.1. Floodplain Overlay District. [Amended 5-28-2013 ATM by Art. 26; 5-30-2023 ATM by Art. 22]**

**A. Establishment.**

- (1) The Floodplain District is herein established as an overlay district.
- (2) The purpose of the Floodplain Overlay District is to:
  - (a) Ensure public safety through reducing the threats to life and personal injury.
  - (b) Eliminate new hazards to emergency response officials.
  - (c) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
  - (d) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
  - (e) Eliminate costs associated with the response and cleanup of flooding conditions.
  - (f) Reduce damage to public and private property resulting from flooding waters.

**B. Definitions.** As used in this section, the following terms shall have the meanings indicated:

**DEVELOPMENT** — Means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials (US Code of Federal Regulations, Title 44, Part 59).

**FLOODWAY** — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height (Base Code, Chapter 2, Section 202).

**FUNCTIONALLY DEPENDENT USE** — Means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes

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**94. Editor's Note:** Original Sec. 6.2, Special Conservancy, which immediately followed, was repealed (amendment pending).

only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities (US Code of Federal Regulations, Title 44, Part 59; also, referenced standard ASCE 24-14).

**HIGHEST ADJACENT GRADE** — Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure (US Code of Federal Regulations, Title 44, Part 59).

**HISTORIC STRUCTURE** — Means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs (US Code of Federal Regulations, Title 44, Part 59).

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement (referenced standard ASCE 24-14).

**RECREATIONAL VEHICLE** — Means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use (US Code of Federal Regulations, Title 44, Part 59).

**REGULATORY FLOODWAY** — See "floodway."

**SPECIAL FLOOD HAZARD AREA** — The land area subject to flood hazards and shown on a flood insurance rate map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30 (Base Code, Chapter 2, Section 202).

**START OF CONSTRUCTION** — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction,

repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual "start of construction" means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling); the installation of streets or walkways; excavation for a basement, footings, piers or foundations; the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building (Base Code, Chapter 2, Section 202).

**STRUCTURE** — Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home (US Code of Federal Regulations, Title 44, Part 59).

**SUBSTANTIAL REPAIR OF A FOUNDATION** — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (as amended by MA in 9th Edition BC).

**VARIANCE** — Means a grant of relief by a community from the terms of a floodplain management regulation (US Code of Federal Regulations, Title 44, Part 59).

**VIOLATION** — Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3<sup>95</sup> is presumed to be in violation until such time as that documentation is provided (US Code of Federal Regulations, Title 44, Part 59).

- C. Designation of community floodplain administrator. The Town hereby designates the position of Building Commissioner to be the official floodplain administrator.
- D. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less-restrictive, conflicting local laws, ordinances or codes. Permitted uses must also meet, at minimum, the Massachusetts State Building Code dealing with construction in floodplains.
- E. Disclaimer of liability. The degree of flood protection required by this section is considered reasonable but does not imply total flood protection.<sup>96</sup>
- F. Severability. If any section, provision or portion of this section is deemed to be unconstitutional or invalid by a court, the remainder of this section shall be effective.<sup>97</sup>

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95. Editor's Note: See 44 CFR 60.3.

96. Editor's Note: Amendment pending.

97. Editor's Note: Amendment pending.

- G. Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA-mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:
- (1) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation.
  - (2) NFIP Program Specialist, Federal Emergency Management Agency, Region I.
- H. Variances to Building Code floodplain standards.
- (1) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing, over the signature of the floodplain administrator that:
    - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
    - (b) Such construction below the base flood level increases risks to life and property.
  - (2) Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.
- I. Variances to local zoning bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from this section must meet the requirements set out by state law and may only be granted if:<sup>98</sup>
- (1) Good and sufficient cause and exceptional nonfinancial hardship exist;
  - (2) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
  - (3) The variance is the minimum action necessary to afford relief.
- J. The district includes all special flood hazard areas within Holland designated as Zone A, AE, AH, AO, or A99 on the Hampden County Flood Insurance Rate Map (FIRM) dated June 7, 2023, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the district shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated June 7, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Commissioner.
- K. Permits are required for all proposed development in the Floodplain Overlay District. A permit is required for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or

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98. Editor's Note: Amendment pending.

drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

- L. Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- M. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- N. All recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway-ready.
- O. AO and AH zones drainage requirements. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- P. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments, the following additional provisions shall apply:
  - (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development, are prohibited unless certification by a registered professional engineer or architect is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
  - (2) Any encroachment meeting the above standard shall also comply with the floodplain requirements of the State Building Code.
- Q. Subdivision standard for the Floodplain District. All subdivision proposals and other proposed new developments shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Floodplain District established under the Zoning Bylaw, it shall be reviewed to ensure that:
  - (1) The proposal is designed consistent with the need to minimize flood damage; and
  - (2) All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage systems shall be provided to reduce exposure to flood hazards; and
  - (4) When proposing subdivisions or other developments greater than 50 lots or five acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

- R. Health regulations pertaining to the Floodplain District. The Board of Health, in reviewing all proposed water and sewer facilities to be located in the Floodplain District established under the Zoning Bylaw, shall require that:
- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system; and
  - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into the floodwaters.
- S. All necessary permits shall be obtained from those federal, state and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act, Amendment of 1972, 33 U.S.C. § 1334.
- T. Prior to the alteration or relocation of any watercourses, the floodplain administrator shall notify the following of any alteration or relocation of a watercourse:
- (1) Adjacent communities, especially upstream and downstream;
  - (2) Bordering states, if affected;
  - (3) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation;
  - (4) NFIP Program Specialist, Federal Emergency Management Agency, Region I.
- U. The flood-carrying capacity within an altered or relocated watercourse shall be maintained.
- V. Violations and enforcement.
- (1) The Planning Board, its agents, officers and employees, shall have authority to enter upon privately owned land for the purpose of performing their duties under this section and may make such examinations, surveys or sampling as the Board deems necessary.
  - (2) The Planning Board may proceed against any person violating any provision of this section, or any decision or regulation of the HCC pursuant to this section, by recommending civil and criminal court actions to the Select Board. The authority to involve Town Counsel in civil or criminal court actions shall remain exclusively with the Select Board.
  - (3) Any person who, after being issued an enforcement order, continues to violate this section or regulations thereunder or permit issued thereunder shall be subject to a fine of \$100. Each day such violation continues after notice to the party concerned shall constitute a separate violation subject to a fine of \$100 per day.
  - (4) In the alternative to criminal prosecution, the Planning Board may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and impose a civil penalty of \$50 for each violation.
  - (5) The penalty associated with applications filed after work has been started or completed, or as the result of a violation and/or enforcement action, shall be \$300 in addition to all the normally incurred fees.



**§ 240-6.2. Wireless Communications Overlay District. [Added 6-30-2003 STM]****A. Definitions:** As used in this section, the following terms shall have the meanings indicated:

**CO-LOCATION** — The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**LATTICE TOWER** — A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

**MONOPOLE** — The type of mount that is self-supporting with a single spire of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.<sup>99</sup>

**WIRELESS COMMUNICATIONS FACILITIES** — The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio service as defined in Section 704 of the Federal Telecommunications Act of 1996.<sup>100</sup> Included are towers, antennas mounted to towers or other structures, and accessory structures, such as sheds.

**B. Purpose.**

(1) The purpose of the Wireless Communications Facilities Overlay District is to establish a district in which wireless communications facilities may be permitted with minimal impact upon the public health, safety and general welfare. This section has been created to (a) protect the general public from hazards associated with wireless communications facilities, (b) minimize visual impacts from wireless communication facilities, (c) prevent an adverse impact on local property values or the rural and residential character of Holland, and (d) promote shared use of existing facilities and structures to reduce the need for new facilities. This section does not apply to satellite dishes and antennas for residential use.

(2) Delineation. The Wireless Communications Facilities Overlay District (WCFOD) shall include all land in the Town of Holland with the following exceptions:

(a) Residential.<sup>101</sup>

(3) Underlying zoning requirements. The Wireless Communications Facilities Overlay District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically provided herein.

**C. Special permit requirements.**

(1) A wireless communications facility may be erected on land located in the Wireless Communications Facilities Overlay District upon the issuance of a special permit by the Planning Board pursuant to Article VIII of this bylaw.

(2) No wireless communications facilities shall be erected or installed except in compliance with the provisions of this section. Any proposed modification to an

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99. Editor's Note: Amendment pending.

100. Editor's Note: See 47 U.S.C. § 521 et seq.

101. Editor's Note: Original Sec. 6.5.2, third paragraph, entry for Special Conservancy, which immediately followed this subsection, was repealed (amendment pending).

existing wireless communications facility, including but not limited to extension in the height, addition of antennas or panels, or construction of a new or replacement facility, shall be subject to these provisions and shall require a new application. The Planning Board may, at its discretion, waive any application requirements for modifications to existing facilities.

- (3) New towers shall be considered only upon finding by the Planning Board that existing or approved towers cannot accommodate the equipment planned for the proposed tower. The applicant shall demonstrate that there is not an existing, approved or proposed wireless communications facility which can accommodate the equipment planned for the applicant's tower.

D. Siting, design and construction guidelines.

- (1) To the extent feasible, all service providers shall co-locate on a single tower. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of towers which will be required within the community. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot adequately fulfill the applicant's service requirements or accommodate the wireless communications equipment contemplated by the applicant.
- (2) All towers shall be designed to be constructed to the minimum height necessary to accommodate anticipated and future use. No wireless communications facility shall exceed 190 feet in height as measured from the ground level at the base of the tower.
- (3) All wireless communications facilities shall be sited in such a manner that the view of facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. Owners of wireless communications facilities shall endeavor to install said facilities in a manner that blends in and does not contrast with the tower and/or landscape where it is located. The Planning Board may impose reasonable conditions to ensure this result, including painting and lighting standards.
- (4) Lattice-style towers and/or any tower requiring guy wires shall not be permitted. Facilities requiring the construction of a tower shall be located on stealth monopoles.
- (5) The setback of a tower from the property line of the lot on which it is located shall be at least equal to the height of the preengineered tower measured at the finished grade of the tower base. No wireless communications facility shall be located within 300 feet of an existing residential building and 750 feet from any historic district.
- (6) All towers shall be preengineered to fail at a predetermined height, enabling the structure to collapse upon itself in the event of a catastrophic failure.
- (7) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and of abutting properties. Fencing shall not be constructed of barbed or razor wire. A landscape buffer of evergreen shrubs or trees shall be provided at the time of installation on the outside of the fenced area. The shrub or tree planting shall mature to a height greater than the fence height and be planted at a height of at least four feet. At maturity, the landscape plantings must provide for a dense visual barrier throughout the year. All landscape plantings must be continually maintained.<sup>102</sup>

- (8) There shall be no signs associated with a wireless communications facility except a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four-hour basis; a "no trespassing" sign; a sign displaying the FCC registration number; and any signs required to warn of danger. All signs shall comply with the requirements of the Holland Zoning Bylaw.
  - (9) Night lighting of towers shall be prohibited. Tower lighting shall be limited to that needed for emergencies. Lighting of buildings and the ground may be provided to ensure a safe and secure facility. All lighting shall be shielded to prevent undue impact on surrounding properties.
  - (10) There shall be a minimum of one parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.
  - (11) To the extent feasible, all network interconnections from the communications site shall be via land lines.
  - (12) Existing on-site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources and which will minimize marring and scarring of the landscape or silting of streams or wetlands.
  - (13) Grading or construction which will result in final slopes of 15% or greater on 15% or more of lot area or on 30,000 square feet of more of a single lot, even if less than half the lot area, shall be allowed only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or environmental degradation. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of four inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.
- E. Application requirements. For the application to be considered complete, the following information must be submitted:
- (1) A site plan prepared by a professional engineer at a scale of 1:40 which complies with all requirements of § 240-8.2D of this bylaw and which shows the following: tower location, tower height, accessory buildings and/or housings for switching equipment, topography of the lot on which the proposed tower will be constructed, underlying zoning districts, fencing and landscaping, access and parking, lighting, limits of clearing, site boundaries, abutters and utilities.
  - (2) A plan outlining the return of the site to preexisting condition shall be submitted as part of the application. A bond, in the an amount the applicant estimates will be required to recondition the site, shall be required. The Planning Board must approve the amount of the bond and any terms and conditions of its release. Said bond shall be held by the Town and released at such time as the Planning Board determines that the condition of the bond agreement have been satisfied.

- (3) A color photograph or rendition of the proposed wireless communications facilities, including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the proposed wireless communications facilities from the nearest street or streets.
- (4) A description of the wireless communications facilities, including, but not limited to, the height of any towers and antennas, access roads and power supplies, the type, size and number of transmitters and a technical report which demonstrates that the maximum height of the installation is the minimum feasible to provide the intended service.
- (5) A description of the capacity of the tower, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
- (6) A description of the special design features utilized to minimize the visual impact of the proposed wireless communications facilities.
- (7) A certification that the applicant possess all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.
- (8) Within 30 days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the maximum height of the proposed installation on a weekend day between the hours of 12:00 noon and 3:00 p.m. The balloon shall be of a size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for posting the date and location of the balloon as a legal advertisement at least 14 days but not more than 21 days before the flight in at least two different issues of a newspaper with a general circulation in the Town of Holland.<sup>103</sup>
- (9) Proof of ownership of the proposed site or proof of a contract or lease with the owner of the site establishing the applicant's right to construct a wireless communications facility on the site. The application must be signed by the owner of the property and the company proposing to erect the facility.

F. Compliance.

- (1) Failure to comply with the provisions of this section or a special permit granted under this section shall be grounds for a nonrenewal of a special permit.
- (2) Certification demonstrating continuing compliance with the standards of the Federal Communication Commission, Federal Aviation Administration, the American National Standards Institute and the regulations of the Massachusetts Department of Public Health; certification of the operator's possession of all necessary licenses to operate such a facility; and certification that the wireless communications facility is still in use shall be filed with the Building Inspector on an annual basis by the special permit holder.

G. Conditions.

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**103.Editor's Note: Amendment pending.**

- (1) Any special permit granted or renewed under this section shall expire five years after the date of the decision of the planning board granting the special permit, unless sooner renewed.
- (2) For wireless communications facilities located on Town property, the operator must execute an agreement with the Town whereby the operator indemnifies and holds the Town harmless against any claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the operator.
- (3) Providers of wireless communications services shall report to the Building Inspector any cessation in the use or operation of any wireless communications facility that exceeds 30 days, and such facilities shall be removed at the owner's expense within one year of cessation of use or operation.

**§ 240-6.3. Home occupations.**

- A. Purpose. The purpose of this section is to permit the residents of the Town of Holland a broad choice in the use of their homes as places of livelihood and the production or supplementation of personal and family income without infringing upon the residential character of the neighborhood.
- B. Applicability. Home occupations shall be permitted in Residential and Agricultural-Residential Districts by right only if the additional standards and conditions specified in Subsection D herein are met and only if the home occupation employs more than one nonresident.<sup>104</sup>
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:  
**HOME OCCUPATION** — An occupation, profession, activity or use carried out by a resident with the intention for economic gain, which is conducted as an accessory use in the resident's dwelling unit or accessory structure on the premises, which does not reveal any outward evidence that the premises are being used for any purpose other than residential.
- D. Standards and conditions. In order for a resident to operate a home occupation or a home tradesman use on his residential lot, the following standards and condition must be met:
  - (1) Residency requirement. The principal residence of the owner/operator of every home occupation shall be the dwelling unit in which the business operates.
  - (2) Location. The use shall be conducted entirely within a completely enclosed dwelling unit or within an accessory structure normally associated with a residence, such as a garage or barn.
  - (3) Home occupation floor area requirements. The home occupation must be incidental to the use of a dwelling unit. No more than 30% of the gross floor area of the residential dwelling or accessory structures or 750 square feet, whichever is greater, may be used in connection with the home occupation or for storage purposes in connection with the home occupation. Floor area, in this case, shall include the gross floor area of all heated and ventilated, and thereby habitable, rooms on the property, including basements, attic space and accessory buildings.

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**104.Editor's Note: Amendment pending.**

## (4) Home occupations and clients.

- (a) If home occupation use requires the visitation of clients at the site, the lot in which the single family house is located must meet the density and dimensional requirements in Article V, Table 2 (area, frontage and setback regulations); provided, however, that this requirement shall not apply to the continuation, without substantial change, of a home occupation which was registered as such with the Town Clerk on or before July 31, 1998, and which otherwise complies with the requirements of this section.
- (b) A preexisting home occupation shall be a home occupation that was registered with the Town Clerk not later than December 1997 and shall be exempted from the requirement in Subsection D(1) above.

## (5) Good neighbor standards.

- (a) The home occupation shall not constitute a nuisance by reason of air or water pollution, excessive noise or visually flagrant structures and accessories, and shall not present a serious hazard to abutters, vehicles or pedestrians.
  - (b) No highly toxic, explosive, flammable, combustible, radioactive or similar hazardous materials are to be used or stored on the premises in amounts that exceed those that are typically found in normal residential use.
- (6) Parking. Off-street parking for the home occupation use must be provided on the premises with a minimum setback of 10 feet from any lot line.

**§ 240-6.4. Open space communities.**

- A. Authority. The Planning Board shall have authority to grant a special permit for the development of a major subdivision in a Residential or Agricultural-Residential District as an open space community, provided that no such permit shall be granted with respect to a plot containing less than 10 developable acres.<sup>105</sup>
- B. Compliance. Any special permit for an open space community shall require that the development comply with the requirements of MGL c. 40A, § 9, pertaining to open space residential development and with the reasonable rules and regulations promulgated by the Planning Board pursuant to the provisions of MGL c. 41, § 81Q.<sup>106</sup>
- C. Lots. Each individual lot in an open space community shall have an area of not less than 10,000 square feet and a frontage of not less than 75 feet.
- D. Density. The number of individual lots in an open space community development shall not exceed the estimated number of lots which the net developable acres of the site could accommodate under the density requirements of Article V. Such number shall be estimated by assuming that with conventional planning 15% of the net developable acres of the site would have been required for streets or other public uses.
- E. Dwelling units. The maximum number of dwelling units permitted in a residential open space development shall be calculated according to the following procedures:<sup>107</sup>

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105.Editor's Note: Amendment pending.

106.Editor's Note: Amendment pending.

- (1) The maximum number of dwelling units permitted shall be the maximum number of lots complying with the dimensional requirements of Article V, Table 2, which could be accommodated by the net developable acres remaining after the area of all wetlands has been subtracted from the total acreage of the property.
  - (2) Under the supervision of the Conservation Commission and in accordance with the provisions of the Wetlands Protection Act, MGL c. 131, § 40, and Town of Holland General Bylaws Chapter 215, all wetlands shall be identified and their area subtracted from the acreage of the total parcel to determine the net developable acres.
- F. Setbacks. All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty feet in width which shall include trees and shall be kept in a natural or landscaped condition.
- G. Open land. The required open land within an open space community shall be determined as follows:
- (1) At least 50% of the net acreage remaining after the area of all wetlands has been subtracted shall be retained as open land.
  - (2) Open land shall be configured in order to protect shoreline areas.
  - (3) All open land shall be permanently protected as provided for in § 240-6.4H(1).
  - (4) The developer must survey and mark with a stone marker all boundaries of the property to be preserved.
  - (5) The land to be protected must be transferred to the prospective owner or holder of the restriction prior to the beginning of construction if feasible. If not feasible, the developer must not use this parcel as any type of staging location or use in the construction process.
  - (6) The Assessor's office must be automatically notified of changes in property lines and designations of certain subdivided parcels as being protected pursuant to Town bylaw.
  - (7) Partnerships between Town boards, homeowners' associations and land trusts (if applicable) are encourage to provide enforcement and stewardship of the property on a permanent basis.
  - (8) Weather-resistant, permanent signage explaining usage and restrictions must be placed at all trail and other entrances and along parcel boundaries at a height that will protect them from destruction by abusers. Landowners and new owners must be notified in writing as to the permitted nature of the land's usage.
  - (9) The developer will provide to the Planning Board the specifics of the usage of the protected land, what is not permitted, who can access the property, when the property can be used and what areas are off-limits.
- H. Ownership of common open space. All open land required in § 240-6.4 shall be either:
- (1) Conveyed to a community association owned or to be owned by the owners of lots within the development. If such community association is utilized, ownership thereof

shall pass with conveyances of the lots in perpetuity; or

- (2) Conveyed to a nonprofit organization the principal purpose of which is the conservation or preservation of open space; or
  - (3) Conveyed to the Town of Holland, at no cost, and be accepted by it for a park or open space use. Such conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting.
- I. In cases where such land is not conveyed to the Town of Holland, a restriction enforceable by the Town shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use nor developed for accessory uses, including but not limited to parking or roadways. Such restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its function, appearance, cleanliness and proper maintenance of drainage, utilities and the like.

#### **§ 240-6.5. Assisted living developments.**

##### **A. Authorization.**

- (1) The Planning Board shall have authority to grant a special permit for the development of an assisted living development in the Agricultural-Residential District as an assisted living community, provided that no such permit shall be granted with respect to a plot containing less than 10 developable acres.<sup>108</sup>
- (2) Any special permit for an assisted living development shall require that the development comply with the requirements of MGL c. 40A, § 9, pertaining to open space development and with the reasonable rules and regulations promulgated by the Planning Board pursuant to the provisions of MGL c. 41, § 81Q.

##### **B. Certification.** Any person advertising, operating, or maintaining an assisted living residence must be certified by the Executive Office of Elder Affairs under Chapter 19D of the Massachusetts General Laws. This includes any person or organization that:

- (1) Provides room and board and assistance with activities of daily living directly through employees or through arrangements with other organizations to three or more adults who are unrelated to the care provider by blood or marriage.
- (2) Collects or arranges for payment for assistance with activities of daily living; that is, such as, but not limited to, physical support, aid or assistance with bathing, dressing/grooming, ambulation, eating, toileting or other similar tasks.

##### **C. Services provided.** Sponsors of certified assisted living residences:

- (1) Must provide or arrange for social opportunities, access to community resources, assistance with ADLs, including, at minimum, bathing, dressing and ambulation, up to three meals a day, housekeeping, laundry and, where required by service plans, self-administered medication management. Each residence must provide twenty-four-hour on-site staff to respond to urgent or emergency needs, and an emergency signaling system.

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**108.Editor's Note: Amendment pending.**



- (2) May provide ancillary services for health related care, such as physician services, pharmacy, restorative therapies, podiatry, hospice and home health services, but only through licensed personnel.
- (3) May admit or retain any person in need of skilled nursing care if that care is provided by a certified or licensed home health agency for not more than 180 days in a twelve-month period. The resident to whom the care is provided must be suffering from a "short-term illness," meaning a medical condition from which recovery can be expected within 180 consecutive days.
- (4) May not admit any person who requires twenty-four-hour skilled nursing supervision.
- (5) Injections of insulin or other drugs used routinely for maintenance therapy of a disease and licensed hospice care are not subject to time limits.

D. Development requirements.

- (1) Construction standards. Interior and exterior construction designs must comply with the Americans with Disabilities Act.<sup>109</sup>
- (2) Each individual lot in an assisted living development shall have an area of not less than 5,000 square feet and a frontage of not less than 50 feet.
- (3) The number of individual lots in an assisted living development shall not exceed the estimated number of lots which the net developable acres of the site could accommodate under the density requirements of four units per acres at 20% cover. Such number shall be estimated by assuming that with conventional planning, 15% of the net developable acres of the site would have been required for streets or other public uses.
- (4) The maximum number of dwelling units permitted in an assisted living development shall be calculated according to the following procedures:
  - (a) The maximum number of dwelling units permitted shall be the maximum number of lots complying with the dimensional requirements of four units per acre, which could be accommodated by the net developable acres remaining after the area of all wetlands has been subtracted from the total acreage of the property.
  - (b) Under the supervision of the Conservation Commission and in accordance with the provisions of the Wetlands Protection Act, MGL c. 131, § 40, and Town of Holland General Bylaws Chapter 215, all wetlands shall be identified and their area subtracted from the acreage of the total parcel to determine the net developable acres.
- (5) The required open land within an assisted living development shall be determined as follows:
  - (a) At least 50% of the net acreage remaining after the area of all wetland has been subtracted shall be retained as open land.

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**109.Editor's Note:** See 42 U.S.C. § 12101 et seq.

- (b) Open land shall be configured in order to protect shoreline areas.
- (c) All open land shall be permanently protected as provided for in § 240-6.4.
- (6) All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least 50 feet in width, which shall include trees and shall be kept in a natural or landscaped condition.

**§ 240-6.6. Adult entertainment establishment.**

- A. Intent. This section is enacted pursuant to MGL c. 40A, § 9A, regarding special permits for adult entertainment establishments. Its purpose is to prevent the secondary effects associated with these establishments and to protect the health, safety and general welfare of the present and future inhabitants of the Town of Holland.<sup>110</sup>
- B. Special permit granting authority. Adult entertainment establishments may be allowed by special permit. The Planning Board shall be the special permit granting authority for adult entertainment establishments and is authorized to hear and decide upon applications for special permits for such businesses.
- C. Application in zoning districts. Adult entertainment establishment use may be permitted by special permit in the Business and Commercial Districts. All adult entertainment establishments shall comply with the following requirements:
  - (1) No adult entertainment establishment shall be located within the following designated areas:
    - (a) Within 500 feet of the nearest boundary line of any residential zoning district or of the nearest property line of any residential use;
    - (b) Within 500 feet of the nearest property line of any public or private school, or municipal building open to the general public;
    - (c) Within 500 feet of the nearest property line of any church or other religious facility;
    - (d) Within 500 feet of the nearest property line of any public park or recreation area and any principal or accessory private recreational facility use;
    - (e) Within 500 feet of the nearest property line of any group day-care center, family day-care center, nursing home and hospital;
    - (f) Within 1,000 feet of the nearest property line of any other adult entertainment establishment;
    - (g) Within 500 feet of any establishment licensed under the provisions of MGL c. 138, § 12;
    - (h) Within 50 feet of a public or private way or 40 feet of all other property lines.

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**110. Editor's Note: Amendment pending.**

The distances specified above shall be measured by a straight line from the nearest structure on the premises on which the adult entertainment establishment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day-care center, family day-care center, nursing home, hospital or any other adult entertainment establishment, as the case may be.

(2) Additional site requirements:

- (a) The maximum lot coverage, including building, parking and driveways, shall be 50% of the upland lot area.
- (b) A twenty-foot vegetated buffer containing adequate screening appropriate to the character of the area and the intensity of the use shall be provided between an adult entertainment establishment and other abutting commercial uses.
- (c) An adult entertainment establishment shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.
- (d) The appearance of buildings for adult entertainment establishments shall be consistent with the appearance of buildings in similar (but not specifically "adult") use, and not employ unusual color or building design which would attract attention to the premises.
- (e) There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right-of-way or abutting property.

D. Applications.

- (1) A site plan shall be submitted by the applicant in order that the Planning Board may determine compliance with the provisions of this section. The site plan shall be prepared and submitted in accordance with § 240-8.2, Site plan approval, of this bylaw. The site plan shall also show when appropriate the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day-care center, family day-care center, nursing home and municipal building and any other adult entertainment establishment(s).
- (2) All applications for a special permit for adult entertainment establishments must include the following information:
  - (a) Names and addresses of the legal owner(s) of the adult entertainment establishment.
  - (b) Names and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed in order that the special permit granting authority will know who are the persons who will actually own and control the establishment. The applicant and/or owner must

disclose if they have been convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.<sup>111</sup>

- (c) Name and address of the manager.
  - (d) The number of employees or proposed number of employees, as the case may be.
  - (e) Proposed security precautions.
- (3) Decisions.
- (a) Special permits shall be granted for adult entertainment establishments only upon determination by the special permit granting authority that the location and design of the facility are in harmony with its surroundings and that adequate safeguards exist through licensing or other means to assure, on a continuing basis, that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.
  - (b) In approving a special permit, the special permit granting authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town; provided, however, that no such conditions in fact prohibit the use of the property for the use intended. No special permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:
    - [1] Limiting the hours of operation.
    - [2] Street, side or rear setbacks greater than the minimum required by the bylaw.
    - [3] Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting or other means.
    - [4] Modification of the exterior features or appearances of the structure.
    - [5] Limitation of size, number of occupants, method or time of operation, or extent of facilities.
    - [6] Regulation of number, design and location of access drives or other traffic features.
    - [7] Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaws.<sup>112</sup>
  - (c) The special permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.
  - (d) Where the adult entertainment establishment is not governed by other state or local licensing boards, the following conditions shall apply:

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**111.Editor's Note: Amendment pending.**

**112.Editor's Note: Amendment pending.**

- [1] A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager.
- [2] The manager shall register with the Select Board.
- [3] No manager shall be designated who has been convicted of violating MGL c. 119, § 63 (inducing or abetting delinquency of a child), or MGL c. 272, § 28 (matter harmful to minors, etc.), or similar laws in other states.

- (e) Special permits for adult entertainment establishments shall not be granted to any person or persons convicted of violating the provisions of the MGL c. 119, § 63, nor MGL c. 272, § 28, or similar laws in other states.

E. Lapse of permit.

- (1) Any special permit granted hereunder for an adult entertainment establishment shall lapse after two years, excluding such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or if, in the case of a permit for construction, if construction has not begun by such date except for good cause, excluding such time to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof.<sup>113</sup>
- (2) The special permit shall lapse after two years unless a shorter term is specified by the special permit granting authority. Upon receipt of a valid application, the special permit granting authority may grant another special permit, provided that the Board finds that all conditions of this section and of approval have been complied with.
- (3) The special permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises:
  - (a) Unlawful sexual activity;
  - (b) Gambling;
  - (c) Drug use;
  - (d) Violent crimes;
  - (e) Offenses against children;
  - (f) Repeated public disturbances requiring intervention by the police; and
  - (g) Any other illegal activities.
- (4) Violation of any of the conditions of approval of the special permit shall be grounds for nonrenewal of the special permit as provided for above.

- F. Existing adult entertainment establishments. Any adult entertainment establishment that was in existence as of the first date of the publication of the notice of public hearing on this zoning amendment regulating adult entertainment establishments may continue to operate in the same location without material change in scale or content of the business but shall

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**113.Editor's Note: Amendment pending.**

apply for such permit within 90 days following the adoption of this section.

- G. Prohibited use. Nothing in this section is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town bylaw or statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or the public display thereof.<sup>114</sup>
- H. Sign requirements.
- (1) Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one identification sign to be mounted on the building wall face shall be allowed for an adult entertainment establishment. All other signs, whether on the exterior of the building or visible from the exterior of the building, are prohibited.
  - (2) No adult entertainment establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.
  - (3) No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult live nudity establishment, adult motion-picture theater, adult paraphernalia store or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment establishment.<sup>115</sup>
- I. Severability. If any clause or provision or subsection of this section shall be determined to be illegal by a court or competent jurisdiction, the remainder of this section shall not be affected thereby.

#### **§ 240-6.7. Accessory dwelling units.**

- A. Purpose and intent.
- (1) The intent of permitting accessory dwelling units is to:
  - (2) Provide homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
  - (3) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
  - (4) Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
  - (5) Provide housing units for persons with disabilities;
  - (6) Legalize conversions to encourage compliance with the State Building Code.

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**114.Editor's Note: Amendment pending.**

**115.Editor's Note: Amendment pending.**

- B. Accessory dwelling standards. The Planning Board as the special permit granting authority (SPGA) may issue a special permit authorizing the installation and use of an accessory dwelling unit within an existing or new owner-occupied single-family dwelling; in an attached structure to an existing single-family home; or detached structure on a single-family home lot only when the following conditions are met:
- (1) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
  - (2) Only one accessory dwelling unit may be created within a single-family house or house lot.
  - (3) The accessory apartment unit will abide by the same minimum dimensional standards as the principal dwelling as specified in the Holland Zoning Bylaw, Table 2, Table of Dimensional Requirements. The accessory apartment shall be included in the calculation of maximum total lot coverage.
  - (4) 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.
  - (5) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.
  - (6) The size of the accessory dwelling unit shall be no more than 50% of the gross floor area of the principal residence or 800 square feet, whichever is less. This applies to accessory apartments created within an existing home, as an attached structure to an existing home, or as a detached structure.
  - (7) 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 800 square feet allowed by this bylaw.
  - (8) An accessory dwelling unit may not be occupied by more than three people nor have more than one bedroom.
  - (9) The accessory dwelling unit shall be designed so that the appearance of the building remains that of a single-family dwelling. To the extent practicable:
    - (a) All stairways to the apartment should be enclosed within the exterior walls of the dwelling. Otherwise, they must not be apparent from the street.
    - (b) Any new entrance shall be located on the side or in the rear of the dwelling.
    - (c) The accessory apartment must use the same driveway as the main dwelling unit.
    - (d) Where necessary to provide safe access and egress for disabled persons, the requirements of this subsection may be waived by the Planning Board.
  - (10) The construction of any accessory dwelling unit must be in conformance with the State Building Code, Title 5 of the State Sanitary Code, and other local bylaws/ordinances and regulations.
  - (11) Off-street parking spaces must be available for use by the owner-occupant(s) and tenants. All vehicles must be parked off the street.

C. Application procedure.

- (1) The procedure for the submission and approval of a special permit for an accessory apartment in owner-occupied, single-family dwelling shall be the same as prescribed in Article VIII, except it shall include a notarized letter of application from the Holland Town Clerk, stating that the owner will occupy one of the dwelling units on the premises. A nonrefundable fee, the amount of which is outlined in Planning Board procedures, shall be included with the application for an accessory apartment to cover the cost of processing the application. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in MGL c. 40A, § 11, must be notified.
- (2) Upon receiving a special permit, the owner(s) must file on subject property a declaration of covenants at the Hampden County Registry of Deeds. The zoning approval and the notarized letters required in § 240-6.7C(1) must be recorded in the Hampden 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 Official, prior to issuance of a certificate of occupancy for the accessory dwelling unit by the Building Official.
- (3) When a structure that 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 60 days of the sale, submit a notarized letter to the Building Official, stating that they will occupy one of the dwelling units on the premises as their primary residence.
- (4) In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Planning Board may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
- (5) Prior to issuance of a special permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building as part of the application.

D. Administration and enforcement.

- (1) It shall be the duty of the Building Inspector to administer and enforce the provisions of this section.
- (2) No building shall be constructed or changed in use or configuration until the Building Official 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 the Town's laws and bylaws. 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 Official where required.
- (3) The Building Official shall refuse to issue any permit which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or its agent.
- (4) The Building Official 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 chapter 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.
  - (6) The Planning Board may, after making findings of fact that support the decision, approve modifications to the dimensional standards of this bylaw § 240-6.7B that will not exceed those standards by more than 10%.
- E. Accessory apartments in existence before the adoption of an accessory apartment bylaw.
- (1) To ensure that accessory apartments or conversions in existence before the adoption of this accessory apartment section are in compliance with the State Building Code regulations, the Planning Board may authorize, under a special permit and in conjunction with the Building Official, a use known as an "accessory apartment in an owner-occupied, single-family dwelling."
  - (2) The applicant must follow the same procedure described in this section, including the submission of a notarized letter by the Holland Town Clerk declaring owner occupancy and a declaration of covenants.

#### **§ 240-6.8. Bed-and-breakfast establishments.**

- A. Purpose. The purpose of the bed-and-breakfast section is to permit the utilization of homes in residential, agricultural residential, business, and rural business districts for small home-based businesses. Further, this section regulates bed-and-breakfast establishments to ensure sensitivity and compatibility with surrounding neighborhoods and to minimize adverse impacts on neighboring residential uses.<sup>116</sup>
- B. Procedure. Bed-and-breakfast establishments may be permitted by special permit in residential, agricultural residential, business, rural business, special conservancy, and commercial zones. Once the special permit is obtained, prior to the renting of any rooms to guests, the applicant shall obtain a certificate of inspection from the Building Inspector.
- C. Requirements.
  - (1) The bed-and-breakfast establishment and operation shall be located within a single family dwelling which is the owner's primary and legal residence.
  - (2) A maximum of five guest bedrooms may be dedicated to the bed-and-breakfast establishment. Additionally, there shall be no more than 10 guests at the establishment at any time.
  - (3) The owner of the property shall be responsible for the operation of the property and shall reside on the property when the bed-and-breakfast establishment is in operation.
  - (4) No meals except breakfast shall be served to guests. Alcohol is prohibited from being sold by the owner to any bed-and-breakfast guest.

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**116.Editor's Note: Amendment pending.**

- (5) There shall be at least one bathroom for every two guest rooms. The bathroom(s) are to be dedicated solely for bed-and-breakfast guests.
- (6) Septic design shall comply with requirements of state law and the Holland Board of Health.
- (7) Signage, parking, and lighting shall comply with the applicable Holland Zoning Bylaw.
- (8) The bed-and-breakfast will meet all applicable Massachusetts food preparation laws.
- (9) All bed-and-breakfast establishments are lodging homes and must meet all of the requirements of MGL c. 140, §§ 22 through 31.

**§ 240-6.9. Large-scale ground-mounted solar photovoltaic installations.**

**A. Purpose.**

- (1) The purpose of this section is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.
- (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations. Solar photovoltaic installations that utilize ground-mounted systems which individually have a rated nameplate capacity of 250 kW (DC) or more.

**B. Applicability.** This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

- (1) General requirements for all large-scale solar power generation installations. The following requirements are common to all solar photovoltaic installations sited in Holland's Commercial District.
- (2) Compliance with laws, ordinances and regulations. The construction and operation of all large-scale 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 solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- (3) Building permit and building inspection. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
- (4) Fees. The application for a building permit for a large-scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

- (5) Site plan review and approval. Ground-mounted large-scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review and approval by the Planning Board prior to construction, installation or modification as provided in this section.
- (a) General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
- (b) Required documents. Pursuant to the site plan review process, the project proponent shall provide the following documents:
- [1] Site plan showing:
    - [a] Property lines and physical features, including roads, for the project site;
    - [b] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
    - [c] 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;
    - [d] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and overcurrent devices;
    - [e] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
    - [f] Name, address, email, phone number, and professional license number of proposed system installer;
    - [g] Name, address, email, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
    - [h] The name, address, email, phone number and signature of any agents representing the project proponent;
    - [i] Documentation of actual or prospective access and control of the project site [see also § 240-6.9B(6)];
  - [2] An operation and maintenance plan [see also § 240-6.9B(7)];
  - [3] 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);
  - [4] Proof of liability insurance;
  - [5] Description of financial surety that satisfies § 240-6.9B(14);

[6] Landscape plan [see also § 240-6.9B(10)(d)];

(c) Waivers.

[1] The Planning Board may waive strict compliance with any requirement with this section of this bylaw, or the rules and regulations promulgated hereunder, where:

[a] Such action is allowed by federal, state and local statutes and/or regulations;

[b] Is not inconsistent with the purpose and intent of this bylaw;

[c] Poses undue difficulty or unreasonable burden on the applicant;

[d] Is unnecessary or redundant to the specific installation.

[2] Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this section of the bylaw does not further the purposes or objectives of this bylaw.

[3] All waiver requests shall be discussed and voted on at the public hearing for the project.

[4] If, in the Planning Board's opinion, additional time or information is required for review of a waiver request, the Board may continue the hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance or fails to provide requested information, the waiver request shall be denied.

(6) Site control. The project proponent 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.

(7) Maintenance and operation plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. Forms for a model M&O plan are available through the Planning Board or Building Inspector.

(8) Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner's or operator's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.

(9) Dimension and density requirements.

(a) Setbacks. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- [1] Front yard: The front yard depth shall be at least 10 feet; provided, however, that where the lot abuts a Residential District, the front yard shall not be less than 50 feet.<sup>117</sup>
- [2] Side yard. Each side yard shall have a depth at least 15 feet; provided, however, that where the lot abuts a Residential District, the front yard shall not be less than 50 feet.<sup>118</sup>
- [3] Rear yard. The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Residential District, the front yard shall not be less than 50 feet.<sup>119</sup>
- [4] Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to existing setbacks and regulations concerning the bulk and height of structures, lot area, 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. Structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(10) Design standards.

- (a) 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. Lighting within the solar photovoltaic installation property shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- (b) Signage. Signs on large-scale ground-mounted solar photovoltaic installations shall comply with § 240-7.4, Signs. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number visible from a right-of-way where the property has frontage. 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.
- (c) Utility connections. Reasonable efforts, as determined by the Planning Board, 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. Electrical transformers for utility interconnections may be aboveground if required by the utility provider.
- (d) Landscape plan. A landscape plan shall be provided that shows the location of all existing and proposed plantings. The landscape plan shall specify the size, type and location of all proposed plantings. All appurtenant structures buildings

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117.Editor's Note: Amendment pending.

118.Editor's Note: Amendment pending.

119.Editor's Note: Amendment pending.

part of the large-scale ground-mounted solar photovoltaic installation shall be screened from adjacent properties by a minimum six-foot-high evergreen vegetative buffer wherever possible.

(11) Safety and environmental standards.

- (a) Emergency services. The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request, the owner or operator 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. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (b) 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 large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

(12) Monitoring and maintenance.

- (a) Solar photovoltaic installation conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator 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 local Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
- (b) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.
  - [1] Maintenance and operation plan and reports. The applicant shall submit a maintenance and operation plan for maintaining access roads, vegetation, and the storm water management system, as well as general procedures for operational maintenance of the large-scale ground-mounted solar photovoltaic system in accordance with manufacturer's specifications
  - [a] At minimum, maintenance and operation reports shall include all work performed at the site (upgrades, landscaping, etc.) and the quantity of energy produced in the reporting period. A brief M&O report shall be submitted every six months to the Building Inspector.

(13) Abandonment or decommissioning.

- (a) Removal requirements. Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with § 240-6.9B(13)(b) of this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the

Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- [1] Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- [2] Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- [3] Stabilization and revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation, upon written request which documents that the proposed option will have a larger positive impact than removing landscaping and foundations.

- (b) 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 one year. Failure to submit two consecutive M&O plans to the Building Commissioner shall constitute abandonment. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation 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 the installation.

- (14) Financial surety. Proponents of large-scale ground-mounted solar photovoltaic projects 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 installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board review authority, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent 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.

#### **§ 240-6.10. Common driveways. [Added 6-30-2003 STM]**

A. Purpose. The purpose of this section is to:

- (1) Enhance the safety and welfare of residents of common driveways; and
- (2) Clarify the rights and responsibilities of builders and residents of common driveways and of the Town of Holland; and to
- (3) Provide access to no more than three lots over a common driveway, rather than by individual driveways on each lot, in order to:
  - (a) Enhance public safety by reducing the number and frequency of points at which

vehicles may enter upon the ways used as public ways, particularly arterial streets as defined in the Subdivision Rules and Regulations, Holland, Massachusetts;

- (b) Preserve, protect and enhance environmentally sensitive land, such as well recharge areas, wetlands and floodplains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious surface;
- (c) Encourage the protection and preservation of significant natural features and vistas.

B. Definition. As used in this section, the following terms shall have the meanings indicated:

COMMON DRIVEWAY — Vehicular access which is not a street but extending from a street, serving as a common vehicular access to more than one but not more than three residential, industrial or commercial lots in any district, built in accordance with standards set forth in this section and allowed by special permit. The driveway will lie entirely within the lots being served.

C. Prohibition. A common driveway which would serve more than three residential lots is prohibited.

D. Scope. Common driveways may be allowed by special permit and plan approval by the Planning Board for residential and commercial uses. Where the proposed development constitutes a subdivision under the Subdivision Control Law, MGL c. 41, § 81K et seq., this Zoning Bylaw shall not apply. All lots associated with the use of a common driveway must provide off-street parking in accordance with Town of Holland criteria. A common driveway shall not become a public way. The Town of Holland shall not be required to provide construction, reconstruction, maintenance, snow plowing, school bus pickup or police patrols along a common driveway, unless by contract duly entered into by the Town and all landowners served by the common driveway.

E. Common driveway standards. The Planning Board may authorize the use of common driveways to provide access to no more than three individual lots of land through issuance of a special permit. The following conditions must be met, except minimum standards may be increased for commercial uses and other standards may be required based on site configurations:

(1) Dimensions.

- (a) A common driveway shall have a minimum roadway width of 14 feet to a maximum of 24 feet, in addition to an easement of sufficient width to assure proper drainage and maintenance.
- (b) A common driveway shall not exceed 1,000 feet in length.
- (c) The slope or grade of a common drive shall in no place exceed 8% if unpaved or 12% if paved. Any amount greater will require a special permit from the Planning Board.<sup>120</sup>
- (d) The common drive shall intersect a public way at an angle of not less than 80°;

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120. Editor's Note: Amendment pending.



- (e) Alignment and sight distances should be sufficient to support a design speed of 15 mph;
  - (f) The common driveway shall be capable of providing access for emergency vehicles (WB 50) with either a "hammerhead," "T" or "Y" configuration in lieu of a cul-de-sac for reverse direction in a single movement;
  - (g) A fire hydrant is required if the terminus of the common driveway is greater than 500 feet from an existing hydrant on a public way;
  - (h) The common driveway shall lie entirely within the lots being served.
- (2) Construction.
- (a) The common driveway shall be constructed of a twelve-inch gravel base consisting of three successive layers of three-fourths-inch crushed traprock stone, one-half-inch crushed traprock stone, and one-fourth-inch crushed traprock stone; the Planning Board may require a bituminous concrete surface.
  - (b) Drainage shall be adequate to dispose of surface runoff, prevent erosion and runoff onto adjoining roads.
  - (c) Any additional storm drainage generated by the new driveway shall not run onto any adjacent property, and to the extent feasible all stormwater shall be recharged on-site.
  - (d) Any utility extensions along the common driveway shall be considered privately owned and maintained.
- (3) Alignment and design.
- (a) The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 5% for the next 30 feet.
  - (b) There shall be a minimum of 1,000 feet between the entrances of any two common driveways onto any road.
  - (c) The common driveway shall enter a roadway at a point separated by at least 100 feet from an intersection. On a state-numbered highway, the common driveway shall enter the roadway at a point separated by at least 100 feet from any other driveway, curb cut, or intersection.
  - (d) A common driveway shall have adequate sight distance at its intersection with a public or private road and shall not create traffic safety hazards to its users or the public.
  - (e) The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.
  - (f) The common driveway shall provide the only vehicular egress/access to the lots being serviced by it, and this shall be so stated in the deeds to the subject lots.
  - (g) Street numbers and identification. Permanent signs, sufficiently readable from

the road to serve the purpose of emergency identification, indicating the street number address assigned to each lot served by the common driveway shall be installed within 10 feet of the intersection of the common driveway with the street, as well as within 10 feet of the intersection of an individual lot driveway with the common driveway. This requirement is in addition to those for individual homes or businesses.<sup>121</sup>

- (h) Common driveway design shall to the greatest extent possible minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of number of accessways and retention of existing vegetation and topography.
- (i) These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.
- (j) No common driveway shall be extended or connected to any way other than at one point of intersection with a street providing frontage to the development.
- (k) All lots to be served by a common driveway must meet the requirements of a lot as defined in this bylaw. All dimensional requirements, as defined in the Zoning Bylaw, for lots served by a common driveway, including, but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.
- (l) Each residential lot having access from an approved common driveway may be improved with no more than two dwelling units and related accessory buildings and uses. Each commercial or industrial lot may be improved with no more than one unit except for a planned development.
- (m) If the common driveway provides access to two or more lots, the landowners of all residences or commercial or industrial units served by a common driveway shall be granted a right-of-way. Such right-of-way shall be recorded at the Registry of Deeds within 30 days of approval by the Planning Board, together with a statement of covenants as follows:
  - [1] The common driveway shall at no time become the responsibility or liability of the Town of Holland.
  - [2] Each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive right-of-way, such as a spur serving solely one parcel.
  - [3] Each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner holds a right-of-way.

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**121.Editor's Note: See also Ch. 118, Buildings and Building Construction, Art. II, Numbering of Buildings.**

- (n) A covenant shall be entered into between the owner or developer and the Town, in a form acceptable to the Planning Board, which binds current and future owners of each lot served by the common driveway, prohibiting the sale of lots and erection of building except for lots approved and/or prior to the adoption of this Zoning Bylaw, until such time as the common driveway has been constructed in accordance with the approved plan. A draft covenant shall be submitted for approval with the special permit application and shall include but not be limited to specific standards for maintenance and repair of the driveway and drainage system, provision for allocating financial responsibility, and a procedure for resolution of disagreements. If the special permit is granted, the covenant shall be recorded at the Registry of Deeds and shall be made part of every deed to every lot served by the common driveway.
  - (o) A common driveway shall not be approved until a declaration of covenants, easements and restrictions for the use and maintenance of the common driveway has been approved by Town Counsel and the Highway Department.
  - (p) The Planning Board may require a performance bond or other security for the completion of the common driveway. Such security shall be posted prior to construction of the driveway. The driveway shall be completed, inspected by the Planning Board or its designee, and the security released prior to the issuance of certificates of occupancy for the lots served by the common driveway.
- F. Procedure for special permits. The Planning Board shall follow the procedural requirements for special permits as per Massachusetts General Law Chapter 40A and §§ 240-8.0 procedure for special permits of the Holland Zoning Bylaw.<sup>122</sup>

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**122. Editor's Note: Original Sec. 6.11, Medical Marijuana Dispensary, adopted 11-20-2013 STM by Art. 10, which immediately followed, was repealed 11-17-2020 STM by Art. 21. See now § 240-7.11, Medical and adult use marijuana.**

ARTICLE VII  
**General Regulations**

**§ 240-7.0. Preexisting nonconforming uses and structures.**

- A. The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this bylaw may be continued although such structure or use does not conform with the provisions of this bylaw.
- B. Alteration, reconstruction, extension or structural change (collectively "alteration") to a nonconforming single- or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right under the following circumstances:
  - (1) Normal repairs or replacement of parts of any nonconforming structure, provided that such repair or replacement does not constitute an extension of a nonconforming use of such structure.
  - (2) Alteration to a conforming structure where the alteration will also comply with all applicable sections of the Zoning Bylaw in effect at the time of application, if the existing structure is located on a lot which is nonconforming as the result of a zoning change.
  - (3) Alteration within the existing footprint of a nonconforming structure to comply with requirements of the Massachusetts Building Code.
  - (4) Alteration to a nonconforming structure where the alteration will comply with all applicable sections of the Zoning Bylaw in effect at the time of application and will not increase the habitable space.
  - (5) Alteration to a nonconforming structure on a lot of at least 10,000 square feet, where the alteration will comply with all applicable sections of the Zoning Bylaw in effect at the time of application, including, but not limited to, setback, yard building coverage and height requirements.
  - (6) In cases where the applicant seeks to increase the height of any structure that encroaches on a required setback, where any increase in height will occur within such encroachment, there shall be no alteration as of right under this section.
- C. Construction of a one-story accessory building, deck or landing which contains no plumbing or septic facilities, is not used for the storage of motor vehicles or parts thereof and complies with the setback requirements and percent of lot coverage requirements of Article V, Table 2, shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right.
- D. Abandonment. A nonconforming use which has been discontinued or not used for a period in excess of two years shall not be reestablished. Any future use shall conform with this bylaw at the time of establishment of the new use. **[Amended 11-20-2013 STM by Art. 9]**
- E. Changes. Once changes to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

**§ 240-7.1. Accessory uses. [Added 6-30-2003 STM]**

## A. Purpose.

- (1) It is the intent of this section to permit accessory uses or accessory buildings with reasonable safeguards within the zoning districts established herein; it is not intended to allow inappropriate or incompatible uses in residential neighborhoods. Accessory uses or accessory buildings are permitted, provided any such use or building is customarily incidental to, subordinate to and on the same lot, adjacent lot, or lot directly across a street or way from the principal lot, as the principal use it serves, provided that both lots are retained in identical ownership, except as otherwise provided for herein. Agricultural uses are exempt from the regulations in this section.

## B. Applicability. Accessory uses, as below, shall be permitted in any district when incidental to a conforming principal building or use therein. Such other accessory uses as the Building Inspector may deem customarily incidental to the principal use and consistent with the purposes of this section shall be permitted.

## C. Restrictions.

- (1) No use shall be permitted in any district as an accessory use which increases the number of dwelling units or the number of buildings on any lot beyond that which is permitted in that district or which constitutes, in effect, a conversion of a permitted use to one not permitted in that district.
- (2) In residence districts, no use shall be permitted as an accessory use to a dwelling which involves or requires any construction features or alterations not residential in character.
- (3) No accessory use shall include any activity primarily conducted for gain, except as incidental to a permitted home occupation.
- (4) The provisions of this section shall not apply to accessory uses which are necessary in connection with scientific research, scientific development or related production activities, whether or not on the same premises as the principal use and only if such uses are accessory to principal uses permitted as a matter of right. Such accessory use may only be allowed by special permit of the Select Board and only after it is determined that the proposed accessory use does not substantially derogate from the public good. All general requirements for the granting of a special permit shall apply in these cases.
- (5) Any use which is accessory to a principal use allowed by right shall be allowed only in connection with such allowed principal use. Any use which is accessory to a principal use allowed by special permit, and which is not specifically included in the original special permit, shall be allowed only after issuance of a new special permit. Cessation of a principal use shall require cessation of any accessory use which is not otherwise allowed as a principal use. The Building Inspector shall be responsible for determining which uses are principal and which uses are accessory. The following shall be limitations on certain specific accessory uses:
  - (a) The keeping of farm animals, to include all farm animals and exotics, and a related private stable for personal use are permitted as accessory uses in accordance with the following conditions:

- [1] The minimum acreage required for keeping any farm or exotic animal, except as described below, shall be 30,000 square feet for the first animal and 15,000 square feet for each additional such animal. Animals under six months of age are not to be counted for acreage requirements.
  - [2] The minimum acreage required for keeping sheep, goats, llamas, rabbits, or poultry, except as allowed under household pets, shall be 30,000 square feet for up to three animals and 10,000 square feet for each additional such animal. (The requirements for these animals are less stringent than other farm animals because these animals have less environmental impact.) Animals under six months of age are not to be counted for acreage requirements.
  - [3] The location of any stable shall not be less than 100 feet from any street lot line, and not less than 30 feet from any other lot line.
  - [4] There must be adequate fencing to contain all farm animals at least 20 feet from all property boundaries at all times, except when animals are being directly supervised by and under control of a person.
  - [5] Stables, corrals and yards shall be properly drained and reasonably free from excessive odor, dust, and mud, so as not to create a nuisance or health hazard to the community or to surrounding property owners, from an air or drainage pollution standpoint. Maintenance of the stable and property used in the keeping of animals shall conform to all health and wetland regulations.
- (b) Horses, ponies, llamas and sheep may be kept for personal use without being accessory to any other use, otherwise in accordance with this section.
- (c) The keeping of the household pets for personal use is permitted as an accessory use for animals commonly considered household pets, including dogs, cats, fish, and birds (parrots, parakeets, doves, pigeons, etc.), six or fewer rabbits, and three or fewer ducks or hens.

D. Signs. Signs for an accessory use having no commercial message and which bear only house numbers, post box numbers, names of residents, or identification of premises and do not exceed two square feet in area, or 12 feet in the aggregate area per premises are allowed in all districts. The sign may include identification of an on-premises professional office or customary home occupation allowed by this section.

#### **§ 240-7.2. Accessory buildings.**

No accessory building or structure shall be located within in the required front yard area. No accessory building shall be located in any side yard area nearer to the side lot line than 10 feet, or in a rear yard area nearer to the rear lot line than 10 feet or nearer to another principal or accessory building than 10 feet, provided that this restriction will not apply to a boat ramp or to a dock complying with the requirements of Chapter 142, Article II, of the General Bylaws of the Town of Holland.

A. The following regulations shall apply to accessory buildings:

- (1) No accessory building shall be used as a dwelling except in a Business District for the accommodation of a caretaker or foreman employed by a business on that site.
- (2) Accessory structures attached to principal structures shall be located in accordance with the dimensional controls in the schedule (Article V) for the district(s) in which they are located.
- (3) Detached accessory structures may be erected in the rear yard area, provided:
  - (a) An accessory building may be located within the required rear or side yard of the principal building, but it shall not be located nearer to any street line than the minimum setback in the zoning district in which it is located.
  - (b) No accessory building shall be within 15 feet of any side nor 40 feet of the rear lot line.
  - (c) An accessory building in a residence district shall not be located nearer than 10 feet of the principal building.
  - (d) It must conform to the requirements of Article IV, Use Regulations.
  - (e) In residential zoning districts, accessory uses and structures are allowed on a lot adjoining or immediately opposite and across a road from the lot on which the principal use it serves is located, provided that both lots are retained in identical ownership with respect to both fee and nonfee interests.
- (4) In all districts except Business, no accessory structure shall be higher than 2 1/2 stories or exceed 42 feet.
- (5) Signs for an accessory use having no commercial message and which bear only house numbers, post box numbers, names of residents, or identification of premises and do not exceed two square feet in area, or 12 feet in the aggregate area per premises are allowed in all districts. The sign may include identification of an on-premises professional office or customary home occupation allowed by this section.

**B. Exemptions.**

- (1) The provisions of this section shall not apply to agricultural structures; however, all such buildings shall be located at least 50 feet from residence districts other than AR.
- (2) The provisions of this section will not apply to a boat ramp or to a dock complying with the requirements of Chapter 142, Article II, of the General Bylaws of the Town of Holland.

**§ 240-7.3. Conversion of seasonal homes to year-round residences.**

**A. The purposes of this section are:**

- (1) To protect surface water and groundwater resources in the Town of Holland from pollution.
- (2) To conserve the recreational, scenic and ecological values of water resources in the Town of Holland for the health, safety and welfare and enjoyment of the people.

- (3) To ensure that the development or conversion of homes for year-round use occurs only on those lots which are served by adequate sewage disposal facilities, water supply, drainage, roads and driveways.

B. Definitions.

NONPERMANENT INSTALLED HEATING SYSTEMS — For the purposes of this Zoning Bylaw, portable heating devices, such as, but not limited to, ceramic heaters, electric space heaters, propane heaters, kerosene heaters; and heating devices, such as, but not limited to, wood-burning/pellet-burning/sawdust-burning stoves and fireplaces and gas-burning fireplaces shall not be considered "permanent installed heating systems" capable of maintaining a mean temperature of 70° F. in all living spaces during the winter season.

SEASONAL-USE STRUCTURE — Those structures that do not contain a permanently installed heating system capable of maintaining a mean temperature of 70° F. during the winter season and are not in conformance with all the applicable sections of the state and Town building and health codes.

YEAR-ROUND USE STRUCTURE — A building that contains a permanently installed heating system and is in conformance with all the applicable sections of the state and Town building and health codes

- C. General regulations. If a residential structure lawfully existing as a seasonal use at the time of adoption of this bylaw is damaged or destroyed by casualty or fire, the residential use may be continued or rebuilt as a seasonal use, to its preexisting nonconforming height, footprint and density, and shall conform as nearly as possible to the current setback requirements of this Zoning Bylaw.
- D. Conversion of a nonconforming seasonal dwelling to a year-round dwelling. A special permit shall be obtained from the Zoning Board of Appeals to address the issue of nonconformity. If the special permit is granted, then all of the following conditions shall be met in order for the conversion to be approved: **[Amended 11-20-2013 STM by Art. 8]**
  - (1) The septic sewage disposal system which is proposed to serve the converted dwelling unit has been inspected according to the criteria set forth in 310 CMR 15.302; and
  - (2) The septic sewage disposal system which is proposed to serve the converted dwelling unit has, in the opinion of the Holland Board of Health, achieved "maximum feasible compliance" as defined in Title 5 of the Massachusetts Environmental Code (310 CMR 15.404); and
  - (3) The septic sewage disposal system which is to serve the dwelling unit proposed for conversion complies with all the Board of Health regulations in effect at the time of the proposed conversion; and
  - (4) The Holland Planning Board certifies that the dwelling has motor vehicle access to a street which meets the standards and requirements for public ways specified in the Subdivision Rules and Regulations of the Planning Board which are in effect at the time of the application for the conversion permit; and
  - (5) The lot on which the building or structure stands includes a minimum of two off-street parking spaces.



**§ 240-7.4. Signs.**

- A. General restrictions and allowances. Any exterior sign or advertising device hereafter erected or maintained shall, except as expressly provided, conform to the following restrictions:
- (1) No sign shall be so located that it will cause danger to traffic by obscuring the view of a public way.
  - (2) Flashing, blinking, revolving signs and similar displays are not permitted except by special permit by the Board of Appeals.
  - (3) No sign shall be placed on or project over Town property or be placed on utility poles which are located on Town property.
  - (4) Nothing in this section shall forbid property owners from erecting on their own property signs not more than two square feet in area containing the words "No Dumping," "No Trespassing," "Private Property," "Beware of Dog," "Blind Driveway" or other customary signs of similar import.
  - (5) One sign for each family residing on the premises, indicating the name of the owner or occupant or pertaining to a permitted accessory use; provided, however, that said sign shall not exceed two square feet in area, or 12 feet in the aggregate.
  - (6) One sign not over nine square feet in area pertaining to permitted buildings, structures and uses of the premises, other than dwellings and their accessory buildings.
  - (7) Temporary signs aggregating not over 12 square feet in area, pertaining to the sale or lease of the premises on which said signs are located, provided that said signs shall be permitted for a period not exceeding one year.
  - (8) Directional signs not exceeding two square feet in area, pertaining to churches, schools, institutions and other nonprofit uses or to the location of businesses, places of accommodation and professional offices.
  - (9) Political signs shall be allowed as a matter of right, but shall not be greater in either area or in the aggregate than that allowed for nonpolitical signs.
- B. Business districts. In all business districts, the following signs and no other are permitted:
- (1) Signs shall pertain only to a use or business conducted on the premises on which they are located and must conform to the height regulations in the appropriate district.
  - (2) The total surface area of any one exterior sign on any one property shall not exceed one square foot for each linear foot of street frontage; however, in no instance shall the total surface area of all exterior signs combined on one premises be more than 200 square feet in area.<sup>123</sup>
  - (3) Notwithstanding any other provisions of this bylaw, religious and public institutions shall be permitted to erect signs in the aggregate of not more than 15 square feet, and only on property belonging to same.

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123.Editor's Note: Amendment pending.

- (4) Illuminated signs shall be located 25 feet or more from a residential district boundary line.
- (5) No sign shall extend over public property.
- (6) Political signs not exceeding 200 square feet in the aggregate.
- C. Municipal uses. All signs placed on Town property shall be subject to approval of the Select Board or its designee. **[Added 11-20-2013 STM by Art. 14; amended 5-21-2019 ATM by Art. 22]**

**§ 240-7.5. Fences.**

- A. Except as permitted in Subsection B, fences must be at least six inches from any lot line and must be erected so that the less appealing or post side shall face inward from the property line of the person who constructs the fence, and chain-link or cyclone fences shall have the barbs face down.
- B. Party-line fences to a maximum height of six feet may be located on or within six inches of a lot line if authorized by permanent easements, legally enforceable against all grantees, duly recorded with the Registry of Deeds with respect to each of the adjoining lots.

**§ 240-7.6. Parking standards. [Added 6-30-2003 STM]**

- A. Purpose. It is the purpose of this section that all new, expanded or intensified uses within the Town provide adequate off-street parking.
- B. Application. No use shall be intensified without providing adequate off-street parking as provided herein.
  - (1) Existing parking spaces may be counted to meet the minimum off-street parking requirements for an intensified use only if it can be demonstrated that they are not used as of right by existing uses and are exclusively available as of right for said proposed intensification.
  - (2) All off-street parking spaces required by this section shall be located on the same lot as the use for which such spaces are required, except that in the Business District, parking spaces may be located on another lot within 300 feet of, and in the same zoning district as, the use for which such spaces are required.
- C. Design/screening standards.
  - (1) Each off-street parking space shall have minimum dimensions of nine feet by 20 feet, excluding the driveway to such space.
  - (2) Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.
  - (3) Parking areas for five or more cars shall be designed with enough maneuvering space so that vehicles need not back onto a public way.
  - (4) No parking lot shall be illuminated so as to cause glare for motorists, pedestrians or neighboring premises.

- D. Landscape requirements for parking lots. In all single-family Residential Districts, where a legal use or a combination of legal uses requires the provision of five or more parking spaces, the following requirements shall apply:
- (1) All the requirements of this section; and
  - (2) A landscaped setback shall be provided from the surfaced area of a parking lot and all entrance and exit drives to the road lot line a distance equal to the required front yard building setback requirement, or a maximum of 50 feet, whichever is less. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the required front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found in the region. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure sight at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained.
- E. In all Business and Commercial Districts, a parking lot shall conform to the following requirements:
- (1) Screening from Residential and Agricultural-Residential Districts: Where a parking lot containing five or more spaces abuts a Residential District, or is located across the road from a Residential District, it shall be screened as follows:
    - (a) Retention or planting of a sufficient area of natural vegetation to provide a dense screen; and/or
    - (b) A dense hedge providing year-round screening; and/or
    - (c) Where vegetative screening is not practical, a fence with not more than 50% open space between the panels. Such screening shall be maintained in good condition at all times, and no advertising shall be placed upon the screening. In an historic district, fences and hedges may be subject to other regulation.
  - (2) All landscaped areas shall be continuously maintained. No certificate of occupancy shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Inspector may issue a certificate of occupancy prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.
- F. Location of parking lot in relationship to buildings. Parking lots shall be located to the rear or side of a building unless such location would have an adverse environmental impact or is infeasible due to configuration of the site.
- G. Conflicting provisions. Any specific provision in any other section of this bylaw relating to parking shall prevail over the provisions of this section.
- H. Schedule of off-street parking requirements. The following standards represent the minimum parking requirements to be applied:

Use	Required Spaces
Attached dwelling units (DU)	1.5/DU + 1 visitor space/10 required DU spaces
Guesthouse, lodging house, group accommodation, bed-and-breakfast	1.2/bedroom
Hotel/motel guest units	1.2/guest unit + 1/every 2 employees on maximum shift
Nursing homes/hospitals	1/every 3 beds
Industry, warehousing, storage, distribution, wholesaling	1/700 square feet gross floor area or 1/every 1.3 employees on maximum shift, whichever is greater
Retail, consumer service	1/200 square feet gross floor area + 1/separate enterprise
Office, professional, administrative, banks	1/300 square feet gross floor area + 1/separate suite
Restaurants, licensed common victualer or employees, purveyor of food ready to be consumed on or off premises	1/every 3 seats + 1/every 2 + 5/take-out area
Places of public assembly	1/every 3 persons' capacity
Convenience store	1/every 300 square feet of gross floor area
Tennis, handball and racquetball courts	3/court, except 0 when a single court is located as accessory to a single-family dwelling
Laundromats	1/every 4 machines
Gas/service stations	3/service bay or 1/100 square feet gross floor area, whichever is greater
All other uses	As determined by the Building Inspector

- (1) Any building hereafter constructed for business or industrial use in the Business or Rural Business Zoning District shall provide an off-street parking area equal to twice the floor area of the building to be constructed.<sup>124</sup>
  - (2) Handicapped parking. All parking areas shall provide handicapped accessible parking spaces, as required by the Federal Americans with Disabilities Act (ADA).<sup>125</sup>
  - (3) In addition to handicapped parking requirements, at least one convenient parking space must be made available for the mobility-impaired.
- I. Reduction of requirements/when applicable. The Planning Board may reduce the requirements of this section by the granting of a special permit only if lesser off-street

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124. Editor's Note: Original Sec. 7.6.8b, regarding parking for buildings constructed in the Conservancy District, which immediately followed this subsection, was repealed (amendment pending).

125. Editor's Note: See 42 U.S.C. § 12101 et seq.

parking is shown to be adequate given such special circumstances as:

- (1) Use of a common parking area by different uses having different peak hours of demand.
- (2) Age or other characteristics of occupants which reduce auto usage.
- (3) Characteristics of use invalidating normal methods of calculating parking demand.
- (4) Supplementary parking provided off premises.

**§ 240-7.7. Earth removal and extractive operations.**

Standards for size of operations. Noncommercial earth removal and extraction operations of less than 300 cubic yards and/or the movement of topsoil and subsoil for personal landscaping or residential property may have the following requirements waived in part or in full by the Planning Board.

**A. Standards for operation of earth removal and extractive operations.**

- (1) Topsoil and subsoil stripped from the operating areas shall be in stockpiles and seeded with an erosion-control seed mixture, and used in restoring the area.
- (2) No removal or extraction shall take place within 300 feet of an existing public way if the extractive operations are below the grade of the center line of the road.
- (3) No removal or excavation shall take place within 30 feet of an adjacent property line or within 100 feet of a wetland.
- (4) No removal or excavation below the natural grade of any property boundary shall be permitted nearer than 30 feet to such boundary.
- (5) No area shall be excavated or filled so as to cause the accumulation of freestanding water unless the Planning Board shall permit the creation of a pond upon the approval of the Conservation Commission.
- (6) Excavation for removal of earth, sand, gravel and other soils shall not extend closer than five feet above the annual high-groundwater table. A monitoring well may be required to be installed by the property owner to verify groundwater elevations.
- (7) The active operation area shall not exceed a total of three acres at any one time for excavation. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.
- (8) Operation hours shall be between 7:00 a.m. and 6:00 p.m., Monday through Saturday. The operator shall be responsible for cleaning spillage on public ways.
- (9) Access road shall be treated with a suitable material to reduce dust and mud for a distance of 150 feet back from such a way. Access road entrances shall include a gate or other secure mechanisms to restrict public access to the site.
- (10) The applicant shall file a complete set of plans of existing and proposed completed cross sections of the area of operations with the Town of Holland Planning Board. Said plan shall be approved by a registered land surveyor registered in the

Commonwealth of Massachusetts.

- (11) The applicant shall post a performance bond with the Planning Board. Said bond shall be equal to the assessed value of the land parcel or parcels being used for earth removal operations.

B. Standards for restoration of earth removal and extractive operations.

- (1) Restoration shall be carried on simultaneously with excavation so that, for excavation only, when any three-acre operation area has been excavated, at least two of those acres must be restored before work commences on the next two contiguous acres. All excavations of less than three-acre operation must be restored within one growing season from completion of operations, unless otherwise instructed by the Planning Board.
- (2) The land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow as well as the area of drainage of any one point is not increased.
- (3) No slope created shall be finished at a grade in excess of two horizontal feet to one vertical foot.

C. Violations of this section shall be subject to a penalty of \$50 for the first offense, \$100 for the second offense, and \$200 for subsequent offenses.<sup>126</sup>

**§ 240-7.8. Supplemental water supply.**

Whenever an individual or a firm purchases, for the purposes of subdivision or construction, three or more residential buildings on contiguous lots or a development of three or more residential buildings or a commercial building of more than 2,000 square feet of size, the requirements of this section shall apply.

- A. A dry hydrant system or a cistern shall be installed for the exclusive utilization of essential fire and maintenance personnel.
- B. Capacity. The capacity of these dry hydrant systems or cisterns shall be in conformance with the current requirements of NFPA 1231.
  - (1) Capacity will be based upon the required flow for the structure being constructed.
  - (2) For residential areas, a minimum capacity will be 12,000 gallons.
  - (3) For commercial structures, the minimum capacity will be 25,000 gallons.
  - (4) Farm and agricultural uses will be exempt from these requirements for accessory use.
  - (5) Residences shall not be exempt.
- C. Dry hydrants shall have the following:
  - (1) A 4 1/2 male National Standard Thread nipple with female cover located within 15 feet of maintained vehicle access.

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**126. Editor's Note: Amendment pending.**

- (2) Design of dry hydrants shall include usage of Worksheet B 5.3.3, National Fire Protection Association.
  - (3) Signage shall be as described in § 240-7.8H.
- D. Cisterns shall be designed in accordance with the current edition of NFPA 1231 and are to include:
- (1) A 4 1/2-inch National Standard Thread (NST) male connection with female cover within 15 feet of maintained vehicle access.
  - (2) A maximum six-inch-diameter drilled well with a minimum twenty-five-foot casing and drive shoe, equipped with a minimum 1/2 horsepower well pump to provide a five-gpm to ten-gpm constant flow.<sup>127</sup>
  - (3) A minimum thirty-two-inch inspection manhole.
  - (4) An eight-inch vent constructed of ASTM Schedule 40 PVC.
  - (5) A clappered siamese 2 1/2-inch female National Standard Thread fill connection.
  - (6) A lighted control panel with green power-indicating light emitting diode (LED), and low-level flashing red indicator and orange pump-running indicator. These indicator lights shall be appropriately labeled. The developer must construct a mounting panel and have metered power connected to the cistern after obtaining all necessary electrical permits.
  - (7) The tank itself shall be constructed of reinforced concrete and be lined with an approved plastic liner or rubber membrane. All components shall be consistent with the specifications of NFPA 1231.
  - (8) All suction and fill piping shall be ASTM Schedule 40 steel. Vent piping shall be ASTM Schedule 40 PVC with glued joints painted with an epoxy paint to prevent ultraviolet degradation. Suction piping shall be painted red. All other exposed piping shall be painted black.
  - (9) Suction piping inside the tank shall be of a size to deliver the required fire flow and shall have a listed mesh screen installed vertically at the bottom of the cistern at a height of six inches off the bottom of the cistern attached to a four feet by four feet by 1/4 inch anti-vortex plate.
  - (10) All fire department pump and suction connections shall be protected from damage by either stanchions, posts or landscaping.
  - (11) All electrical controls, boxes and manholes shall be locked with "keyed-alike" padlocks. Master lock numbers shall be obtained from the Fire Department.
  - (12) Signage as described in § 240-7.8H.
- E. Prior to construction:
- (1) Plans shall be reviewed and stamped by a certified fire protection engineer. When

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127.Editor's Note: Amendment pending.

plans are submitted to the Fire Chief, they must be accompanied by a five-year bond equaling the replacement cost of the entire system as determined by the Fire Chief.

- (2) This amount will be determined by the Fire Chief. Should the full amount not be utilized, the remaining balance will be returned to the developer by the Town at the end of the five-year period.<sup>128</sup>
- F. After completion of construction, final as-built drawings must be submitted and an acceptance test conducted by the Town of Holland Fire Department.
- G. Prior to issuance of the building permit for the third residence, these systems shall be complete and fully operational.
- H. A sign shall be installed which has a minimum one inch white reflective letters on a red reflective background and shall state:

Fire Department Cistern

\_\_\_\_\_ Capacity

ID # \_\_\_\_\_

Fire Department Dry Hydrant

\_\_\_\_\_ Capacity

ID # \_\_\_\_\_

**§ 240-7.9. Cutting, sawing, logging and marketing of lumber, pulp and firewood. [Added 6-30-2003 STM]**

Standards for operation of cutting, sawing and marketing of lumber, pulp and firewood.

- A. No mud or debris is to be tracked onto any paved road from site. Stone or gravel should be used to cover site loading area to ensure against mud buildup.
- B. All loading of equipment is to be restricted to designated areas shown on site plan. No loading shall take place on paved roads.
- C. The proposed development shall maximize the convenience and safety of vehicular and pedestrian movement within the site and shall provide safe access to and from public and private roads.
- D. The development shall provide adequate measures to prevent pollution of surface water or groundwater, to minimize erosion and sedimentation and to minimize changes in groundwater levels, increased runoff and potential for flooding.
- E. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect neighbors from unsightly features, if applicable.
- F. Construction, logging. And other outdoor activities on the site shall not operate between the hours of 9:00 p.m. and 7:00 a.m. of the following day.
- G. There shall be no emissions of toxic or noxious matter or objectionable odors of any kind in such quantity as to be readily detectable at any property line of the lot on which the use emitting the toxic or noxious material or odor is located. For the purposes of this section, "toxic or noxious matter" is any solid, liquid, or gaseous matter which by chemical means

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**128.Editor's Note: Amendment pending.**



is inherently harmful and likely to destroy life or impair health or capable of causing damage to property or injury to the well-being of people.

- H. All outdoor storage facilities for fuel, chemicals, hazardous materials or wastes, and potentially harmful raw materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the volume of liquid kept in the storage area, at least equal to 110% of the capacity of the containers, so that the liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area.
- I. No highly flammable or explosive liquids, solids or gases shall be stored in bulk aboveground unless they are located in anchored tanks at least 75 feet from any lot line, Town way or interior roadway or in underground tanks at least 40 feet from lot lines. All relevant federal and state regulations shall also be met.
- J. The rate of stormwater runoff from a site shall not be increased during or after foresting.
- K. Erosion of soil and sedimentation into bodies of water shall be minimized by using the following erosion control measures:
  - (1) Areas exposed or disturbed due to stripping of vegetation, soil removal or regrading shall be stabilized permanently within six months of completion of foresting.
  - (2) During foresting, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is stabilized permanently, sediment in runoff water shall be trapped by using staked hay bales, silt fencing, sedimentation traps or any combination of these techniques sufficient to prevent sediment from reaching any property line or any stream or water body. There, erosion control devices shall be inspected and, if necessary, repaired on a weekly basis, as well as before and after major storms.
- L. Dust control shall be used as provided in § 240-7.10, Development and performance standards.<sup>129</sup>
- M. Commercial logging operations shall obtain approval from the Highway Department for driveway cuts or any access or egress to and from the site.
- N. Any logging performed by a commercial logging company or logger or where wood will be sold commercially shall obtain a state cutting plan prior to commencing of cutting.
- O. Logging shall be performed in compliance with all applicable state and local laws.
- P. A \$1,000 bond is required to be deposited with the Town of Holland.

**§ 240-7.10. Development and performance standards. [Added 6-30-2003 STM]**

- A. Purpose. The purpose of these development performance standards is to promote well-designed developments and to minimize the adverse impacts of such development on community character, traffic safety, environmental quality and neighboring properties.
- B. General application. All projects or uses requiring special permit or site plan approval must

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**129.Editor's Note: Amendment pending.**

demonstrate compliance with the performance standards herein.

- (1) Access and traffic impacts. Applicants must demonstrate that the project will minimize traffic and safety impacts on roadways.
  - (a) The number of curb cuts on Town roads shall be minimized. To the extent feasible, access shall be provided via one of the following:
    - [1] Access via existing side street.
    - [2] Access via a cul-de-sac or loop road shared by adjacent lots or premises.
  - (b) One driveway shall be permitted as a matter of right.
  - (c) Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width.
  - (d) All driveways shall be designed with a safe sight distance.
- (2) Parking. Proposed projects or uses must comply with parking and off-street loading requirements in § 240-7.6 and the following standards:
  - (a) To the extent feasible, parking areas shall be located to the side or rear of the structure and be shared with adjacent businesses.
  - (b) Parking area screening and buffering.
    - [1] Vegetative or structural screens shall be established on the perimeter of all parking areas to prevent direct views of parked vehicles from streets and sidewalks, avoid spillover light, glare, noise, or exhaust fumes onto adjacent properties and to provide the parking area with a reasonable measure of shade when trees reach maturity.
    - [2] Vegetative or structural screens shall be no less than five feet high and shall be visually impervious throughout the year. Screens may be a hedge, wall, fence, or combination of these choices. A land berm may be used to provide up to 50% of the required height. The height of any screen shall decrease where driveways approach sidewalks, walking paths, and streets in order to provide adequate visibility of pedestrians from motor vehicles and to maintain a clear line of sight for vehicles entering the roadway.
    - [3] Every effort shall be made to integrate existing mature trees on the site into the proposed landscape plan. Existing trees which are used to meet the requirements of this section shall be protected during construction, using the following standards:
      - [a] Fencing or other protective barrier shall be used around trees on construction sites.
      - [b] Changes in the normal drainage patterns shall be avoided and appropriate protection shall be provided for trees if a grade change is necessary in the surrounding area.
      - [c] Vehicular (including construction machinery) and pedestrian traffic

shall be kept away from trees to prevent soil compaction and destruction of the root system.

- [d] If a tree is damaged during construction, the applicant shall file a revised landscape plan with the Planning Board, detailing an alternative planting schedule, which shall meet the standards for landscaping set forth in this bylaw.

(3) Landscaping.

- (a) A landscaped buffer strip at least 20 feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium-height shrubs, and shade trees (minimum three-inch caliper, planted at least every 50 feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersection so that they do not present a traffic visibility hazard.
- (b) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms or wall or tight fence complemented by evergreen plantings.
- (c) All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- (d) Landscaping shall be in conformance with existing Town bylaws.
- (e) Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six months from the time of project completion.

(4) Stormwater runoff.

- (a) The rate of surface run off from a site shall not be increased after construction. If needed to meet this requirement and to maximize groundwater recharge, increased run off from impervious surfaces shall be recharged on-site by being diverted to vegetated surfaces for infiltration or through the use of detention ponds. Dry wells shall be used only where other methods are unfeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.
- (b) Neighboring properties shall not be adversely affected by flooding from excessive runoff.
- (c) The use of proven, alternative paving systems, such as porous paving, is highly encouraged to reduce the amount of impervious surface on developed sites.
- (d) The use of shared stormwater management structures and facilities is highly encouraged.

(5) Erosion control. Erosion of soil and sedimentation of streams and water bodies shall be minimized by using the following erosion control practices:

- (a) Exposed or disturbed areas due to stripping of vegetation, soil removal, and regrading shall be permanently stabilized within six months of occupancy of an structure. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff water shall be trapped by using staked hay bales or sedimentation traps.
  - (b) Permanent erosion control and vegetative measures shall be in accordance with the erosion/sedimentation/vegetative practices recommended by the Natural Resources Conservation Service (NRCS).
  - (c) All slopes exceeding 15% resulting from site grading shall be covered with four inches of topsoil and planted with a vegetative cover sufficient to prevent erosion.
  - (d) Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place or business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.
- (6) Water quality. All outside storage facilities for fuel, hazardous materials or waste, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold 110% of the total volume of liquid kept within the storage area.
- (7) Explosive materials.
- (a) No highly flammable or explosive liquids, solids or gases shall be stored in bulk aboveground, unless they are located in anchored tanks at least 75 feet from any lot line, Town way, or interior roadway or 40 feet from lot line for underground tanks; plus, all relevant federal and state regulations shall also be met.
  - (b) Propane gas tanks in 250-pound cylinders (or smaller) shall be exempt from these safety regulations.
- (8) Lighting.
- (a) Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.
  - (b) No light post shall be taller than 16 feet, except that the Planning Board may waive this requirement upon finding that the use of taller light standards up to 25 feet in height results in a more functional site configuration.
- (9) Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and as measured at any property line of the lot shall not exceed the following intensity in relation to sound frequency. The Department of Environmental Protection's regulations on noise in 310 CMR 7.10 shall be enforced.
- (a) The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the sound source:

District	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
General	65	60
Commercial	70	65
Multi-Unit	55	45

- (b) Source pressure level limits measured in dBAs.
  - (c) Sound pressure level shall be measured at all major lot lines, at a height of at least four feet above the ground surface. Noise shall be measured with a sound level meter meeting current standards used by the Department of Environmental Protection.
  - (d) Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other special circumstances. Such activities shall comply with 310 CMR 7.10.
  - (e) No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day.
- (10) Utilities. Electric, telecommunications, and other such utilities shall be underground where physically and environmentally feasible.
- (11) Air quality standards.
- (a) Odor, dust, and smoke. No such emission shall be discernible beyond the property line or, in the case of an industrial park development, or of a multiple use of the property, beyond 100 feet of the building generating the emission. The Department of Environmental Protection's regulations listed in 310 CMR 7.09 shall be enforced.
- (12) Building construction. All buildings shall be of construction prescribed in the State Building Code.
- (13) Heat, glare, vibration and radiation. No heat, glare, or vibration shall be discernible from the outside of any structure, and all radiation shall be contained within a structure.
- (14) Storage. All materials, supplies and equipment shall be stored in accordance with fire prevention standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.<sup>130</sup>
- (15) Waste disposal and water supply. Regulations of the Department of Environmental Protection shall be met and shall be as indicated on the approved site plan.

**§ 240-7.11. Medical and adult use marijuana. [Added 11-20-2013 STM by Art. 10; amended 11-17-2020 STM by Art. 21]**

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**130.Editor's Note: Amendment pending.**

- A. **Purpose.** The purpose of this section is to provide for the placement of registered medical marijuana treatment centers and marijuana establishments, in accordance with applicable state law, including 935 CMR 500.000, Adult Use of Marijuana, 935 CMR 501.000, Medical Use of Marijuana, and MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, and MGL c. 94G, in locations suitable for lawful medical marijuana treatment centers and marijuana establishments and to minimize adverse impacts of medical marijuana treatment centers and marijuana establishments on adjacent properties and the public by regulating the siting, design, placement, security, and removal of medical marijuana treatment centers and marijuana establishments. The regulated zoning of MTCs and MEs will serve to preserve the character of the community and create a place for the public to responsibly have access to legal marijuana for adult recreational use and medical use while mitigating community impact.
- B. **Applicability.** This section applies to the operation of MTCs and MEs. Nothing in this section shall be construed to supersede state law governing the sale and distribution of marijuana, or any federal laws governing the interstate transportation or sale of the same. This section does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to MGL c. 128, §§ 116 to 123.
- C. **Definitions.**
- (1) Where not expressly defined herein, the terms used in this bylaw shall be interpreted as defined in Chapter 94I, Chapter 94G and the regulations promulgated by the Cannabis Control Commission (the Commission) from time to time thereunder, including, without limitation, 935 CMR 500.000, 935 CMR 501.000, and otherwise by their plain language.
- (2) For the purposes of this section, the following terms shall have the following meanings hereby assigned to them:
- CANNABIS or MARIJUANA or MARIHUANA — All parts of any plant of the genus Cannabis not excepted in Subsection (2)(a) through (c) of this definition, and whether growing or not; the seeds thereof, and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in MGL c. 94G, § 1; provided that cannabis shall not include:
- (a) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (b) Hemp; or
- (c) The weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.
- CANNABIS CULTIVATION — The use of land and/ or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, microbusiness, research facility, craft marijuana cultivator

cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. The cultivation and processing of marijuana in accordance with these regulations is considered to be a manufacturing use and shall not be deemed exempt from zoning as an agricultural use under the Town's Zoning Bylaw.

- (a) Allowed in AR Zone with the following restrictions: minimum acreage requirement not less than 35 acres, road frontage 200 feet, front setback 200 feet, side and rear 200-foot setback.

**CANNABIS OR MARIJUANA PRODUCTS** — Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

**CEASES TO OPERATE** — Means a medical marijuana treatment center or marijuana establishment which closes and does not transact business for a period greater than 180 days. A determination that an establishment has ceased to operate may be based on its actual or apparent termination of operations.

**COMMISSION** — The Massachusetts Cannabis Control Commission established by MGL c. 10, § 76, or its designee.

**CRAFT MARIJUANA COOPERATIVE** — A marijuana cultivator comprised of residents of the commonwealth and organized as a limited-liability company, limited liability partnership, or cooperative corporation under the laws of the commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to marijuana establishments, but not to consumers.

**DARK SKIES STANDARDS** — A design standard to reduce light pollution from lighting fixtures to minimize glare, light, and trespass which is reflected into the night sky and generally reduces sky glow to the most minimum level practically achievable.

**HEMP** — The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis, regardless of moisture content.

**HEMP CULTIVATOR** — An agricultural establishment authorized by the Massachusetts Department of Agricultural Resources to cultivate hemp for commercial and industrial purposes.

**HOST COMMUNITY** — A municipality in which a medical marijuana treatment center or marijuana establishment is located or in which an applicant has proposed locating a medical marijuana treatment center or marijuana establishment.

**HOST-COMMUNITY AGREEMENT** — An agreement, pursuant to MGL c. 94G, § 3(d), between a medical marijuana treatment center and/ or marijuana establishment with a municipality.

**LICENSEE** — A person or entity licensed by the Commission to operate a medical marijuana treatment center or marijuana establishment under 935 CMR 500.000 and 935 CMR 501.000.

**MANUFACTURE** — To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

**MARIJUANA CULTIVATOR** — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other marijuana establishments, but not to consumers. A craft marijuana cooperative is a type of marijuana cultivator.

**MARIJUANA ESTABLISHMENT** — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, marijuana independent testing laboratory, marijuana research facility, marijuana transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

**MARIJUANA INDEPENDENT TESTING LABORATORY** — A laboratory that is licensed by the Commission and is:

- (a) Accredited to the International Organization for Standardization 17025 (ISO/IEC 7025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory;
- (b) Independent financially from any medical marijuana treatment center (RMD), marijuana establishment or licensee for which it conducts a test; and
- (c) Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, § 34.

**MARIJUANA MICROBUSINESS** — A colocated marijuana establishment that can be either a Tier 1 marijuana cultivator or product manufacturer or both, in compliance with the operating procedures for each license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

**MARIJUANA PROCESS OR PROCESSING** — To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

**MARIJUANA PRODUCT MANUFACTURER** — An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other marijuana establishments, but not to consumers.

**MARIJUANA RESEARCH FACILITY** — An entity licensed to engage in research projects by the Commission.

**MARIJUANA RETAILER** — An entity licensed to purchase and transport cannabis or marijuana product from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers and from offering cannabis or marijuana products for the purposes of on-site, social consumption on the premises of a marijuana establishment.



**MARIJUANA TRANSPORTER** — An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers. Marijuana transporters may be an existing licensee transporter or third-party transporter.

**OPEN-AREA CULTIVATION** — A marijuana cultivation operation conducted wholly in the open air and not located in any building, greenhouse or other enclosed area which would be subject to security provisions of 935 CMR 500.110(6) and 935 CMR 500.120.

**PROPAGATION** — The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

**PROVISIONAL MEDICAL MARIJUANA TREATMENT CENTER OR MARIJUANA ESTABLISHMENT LICENSE** — A certificate issued by the Commission, confirming that a medical marijuana treatment center or marijuana establishment has completed the application process and satisfied the qualifications for initial licensure.

**REGISTERED MARIJUANA DISPENSARY (RMD) or MEDICAL MARIJUANA TREATMENT CENTER** — Means an entity formerly and validly registered under 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana, or currently and validly registered under 935 CMR 501.100 that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana. Medical marijuana treatment centers permitted in accordance with these regulations are not considered being subject to any agricultural exemptions under zoning.

D. Requirements/conditions. For the purposes of this section, only those uses in the schedule below shall be allowed in the Town of Holland:

- (1) Special permit granting authority. For the purposes of this § 240-7.11, the special permit granting authority shall be the Planning Board of the Town of Holland.
- (2) State law. Medical marijuana treatment center and marijuana establishment operations shall conform at all times to MGL c. 94G and regulations promulgated by the Commission as 935 CMR 500.000 and 935 CMR 501.000.
- (3) Special permits granted under this section shall be issued to no more than two licensees per location. No special permit shall allow for the concurrent operation of three or more medical marijuana treatment centers and/ or marijuana establishments on the same parcel of land.
- (4) Location and physical requirements:
  - (a) No medical marijuana treatment center or marijuana establishment shall be located on a parcel which is within 500 feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the

property line where the medical marijuana treatment center or marijuana establishment structure is or will be located) of a parcel occupied, at the time the applicant's license application was received by the Cannabis Control Commission, by any of the following:

- [1] A public or private school providing education in preschool, kindergarten or any of grades one through 12.
  - [2] A public or private library.
  - [3] Duly licensed day-care centers.
  - [4] Churches, synagogues or other places of worship.
  - [5] Public or private parks, playgrounds and recreation areas.
- (b) All aspects of any medical marijuana treatment centers and marijuana establishments, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at an enclosed, fixed location and shall not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar-type potentially movable platform or enclosure. Open-air cultivation shall be prohibited.
- (c) No medical marijuana treatment center or marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- (d) No medical marijuana treatment center or marijuana establishment shall be permitted to utilize or provide a drive-through service.
- (e) Medical marijuana treatment centers or marijuana establishments are encouraged to utilize existing and vacant buildings where possible.
- (5) Time and manner:
- (a) Any type of medical marijuana treatment center or marijuana establishment may only be involved in the uses permitted by its license definition and may not include other businesses or services.
  - (b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within medical marijuana treatment centers or marijuana establishments unless expressly permitted under this section and permitted by state law or regulation. The prohibition on on-site consumption shall also include private social clubs and any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on-site.
  - (c) The hours of operation shall be set by the special permit granting authority, but in no event shall a medical marijuana treatment center or marijuana establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises,

between the hours of 8:00 p.m. and 8:00 a.m.

- (d) No medical marijuana treatment center or marijuana establishment may commence operation prior to its receipt of all required permits and approvals, including, but not limited, to its final license from the Cannabis Control Commission.
  - (e) The number of adult use marijuana retail establishments permitted to be located within the Town shall not exceed three and are subject to Planning Board review.
  - (f) Nuisance. No medical marijuana treatment center or marijuana establishment shall create nuisance conditions or any hazards, including, but not limited to, excessive pedestrian or vehicular traffic, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area. Noise from medical marijuana treatment centers or marijuana establishments shall be properly mitigated.
- (6) Design standards. In addition to the general requirements in § 240-7.11D(1) through (5), the following design standards shall also apply to all medical marijuana treatment centers and marijuana establishments in the Town of Holland:
- (a) Town character and aesthetic. To the extent reasonably possible, all structures utilized for any purpose by a licensed medical marijuana treatment center or marijuana establishment shall be compatible in scale, design and aesthetic with the existing neighboring properties in particular, and with the rural, agricultural character of the Town of Holland in general.
  - (b) Building scale, mass and bulking.
    - [1] "Enclosed structures," for the purpose this section, shall mean any structure, other than a standard greenhouse, actively devoted to the cultivation, manufacture, transportation, storage or testing of marijuana products.
      - [a] Maximum building footprint. The total combined footprint for all enclosed structures shall not exceed 25% total lot coverage in all districts, except for the Commercial District, and shall be subject to Planning Board review.
      - [b] Height. No enclosed structure shall exceed a total of 35 feet in height.
      - [c] Spacing. Enclosed structures shall be no less than 20 feet apart and no marijuana establishment will be allowed to erect more than five enclosed structures.
    - [2] Greenhouses. For the purpose of this § 240-7.11, a "greenhouse" shall mean any structure with walls and roof made of transparent or translucent material in which plants requiring regulated climatic conditions are grown, and allowed in all areas where marijuana cultivation is allowed, provided

that:

- [a] The greenhouse installation conforms to all regulations regarding security, screening, ventilation, odor and any other provisions of 935 CMR 500, 935 CMR 501 et seq., and of this bylaw.
  - [b] The total footprint of all structures devoted to active cultivation, including greenhouse space, does not exceed 25% of lot coverage.
  - [c] No greenhouse exceeds a total height of 35 feet.
- [3] Retail establishments. The total gross floor of retail marijuana establishments or a medical marijuana treatment center engaged in dispensing operations shall not exceed 2,500 square feet.
- [4] Setbacks. With the exception of retail establishments uses, all marijuana establishments shall have a minimum setback of 200 feet as measured from the nearest edge of any public right-of-way or abutting property boundary.
- [5] Roofing. No enclosed structure, as defined herein, shall have a roof pitch of less than 5:12.
- (c) Visual impact. Marijuana plants, products, and paraphernalia shall not be visible from the outside of the building in which the medical marijuana treatment center or marijuana establishment is located and shall comply with the requirements of 935 CMR 500 et seq. No outside storage of marijuana, related supplies, or promotional material shall be permitted. Any artificial screening device erected to eliminate the view from a public way shall also be subject to a vegetative screen, and the special permit granting authority shall consider the surrounding landscape and views to determine if an artificial screen would be out of character with the neighborhood.
- (d) Ventilation and odor. All medical marijuana treatment centers and marijuana establishments shall be ventilated in such a manner that:
- [1] No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
  - [2] Employs odor-control technology such that no odor from marijuana, marijuana products or a medical marijuana treatment center and/or marijuana establishment can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana treatment center or marijuana establishment or at any adjoining use or property.
- (e) Signage. All signage shall comply with all other applicable signage regulations in the Zoning Bylaw, 935 CMR 500, and 935 CMR 501.
- (f) Lighting. To the extent permissible by state law and regulations, all medical marijuana treatment centers and marijuana establishments shall make every reasonable effort to minimize the effects of security and other necessary light installations on the surrounding community and shall comply with dark-skies

standards whenever possible.

(7) Reporting requirements.

- (a) Prior to the commencement of the operation or services, any medical marijuana treatment center or marijuana establishment approved under this section shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the special permit granting authority with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- (b) The local Building Inspector, Board of Health, Police Department, Fire Department, Select Board and special permit granting authority shall be notified, in writing, by the medical marijuana treatment center or marijuana establishment facility owner/operator/ manager:
  - [1] A minimum of 30 days prior to any change in ownership or management of that establishment.
  - [2] A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
- (c) Medical marijuana treatment centers or marijuana establishments shall file an annual written report to, and appear before, the special permit granting authority no later than January 31 of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the special permit.

(8) Issuance/transfer/discontinuance of use.

- (a) Special permits/site plan approvals shall be issued to the medical marijuana treatment center or marijuana establishment owner only.
- (b) Special permits/site plan approvals shall be issued for a specific type of medical marijuana treatment center or marijuana establishment on a specific site/parcel only.
- (c) Special permits/site plan approvals shall be nontransferable to either another medical marijuana treatment center or marijuana establishment owner or another site/parcel.
- (d) Special permits/site plan approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a medical marijuana treatment center or marijuana establishment and shall lapse if:
  - [1] The medical marijuana treatment center or marijuana establishment cease to operate; and/or
  - [2] The medical marijuana treatment center or marijuana establishment's

registration/license by the Cannabis Control Commission expires or is terminated.

- (e) The medical marijuana treatment center or marijuana establishment shall notify the Zoning Enforcement Officer and special permit granting authority, in writing, within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.
- (f) In the event that any medical marijuana treatment center or marijuana establishment has reasonable grounds to temporarily cease to operate, the special permit granting authority may, at its discretion, extend the term limit, provided that:
  - [1] The licensed medical marijuana treatment center or marijuana establishment submits to the special permit granting authority a written statement explaining the need for such an extension, the steps being taken to resume operations and the amount of time considered necessary to realize those steps; and
  - [2] No such cessation of operations shall be for a period longer than 365 days in total.
- (g) A marijuana cultivator or manufacturer shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
- (h) Prior to the issuance of a building permit or certificate of occupancy for a medical marijuana treatment center or marijuana establishment, the applicant shall be required to furnish evidence that a decommissioning bond or other form of financial security pursuant to the requirements of 935 CMR 500.105(16) has been posted with the Commission in an amount which shall be sufficient to cover the costs of removing all materials, plants, equipment and other paraphernalia in the event the applicant fails to do so.<sup>131</sup>
  - [1] Should the applicant not furnish sufficient evidence, or such financial security is deemed insufficient in the opinion of either the special permit granting authority or Town Treasurer to cover potential costs to the Town for the removal of said material, the applicant shall post with the Town Treasurer an addition bond or other form of financial security acceptable to said Treasurer in an amount set by the special permit granting authority, which shall cover any and all potential costs to the Town for the removal of said material.
  - [2] In the event that the Town finds a licensed medical marijuana treatment center or marijuana establishment ceases to operate, the Building Inspector shall give the owner 30 days' written notice in advance of taking any action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 30 days' written notice, any bond posted with and under the control of the Town Treasurer shall be returned to the applicant.

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131.Editor's Note: Amendment pending.

- [3] All licensed medical marijuana treatment centers and marijuana establishments in the Town of Holland shall be required to furnish to the Town an annually updated estimate of decommissioning costs, which shall include any increases resulting from changes to operations, annual inflation or any and all other factors, as well as a full accounting of any bonds or other financial securities held with the Commission and/or the Town. The owner shall be responsible for the cost of any annual increases in posted bonds necessary to cover the cost of decommissioning.
- (i) The special permit granting authority may hire, at the applicant's expense, professional, third-party consultant(s) of its choosing to assist it in evaluating the special permit application, estimating any bond amounts as required by § 7.11D(8)(h) of this bylaw, or any other requirements contained herein.
- E. Application requirements. Medical marijuana treatment center or marijuana establishment shall only be allowed by special permit from the special permit granting authority in accordance with MGL c. 40A, § 9, and other provisions of this chapter. All special permits for medical marijuana treatment centers and marijuana establishments shall be subject to following requirements and conditions:
- (1) Community host agreement. All applications for a special permit shall include an executed community host agreement with the Town.
  - (2) Community outreach meeting for marijuana establishments. All applications for a special permit shall include certification that a community outreach hearing in accordance with 935 CMR 500 has occurred. Additionally, the applicant shall demonstrate that reasonable efforts have been made to ensure that any and all handouts, presentations and other audio/visual materials utilized in a public hearing have been designed so as to accommodate the needs of sight- and/or hearing-impaired residents.
  - (3) Site plan approval. No special permit for any medical marijuana treatment centers and marijuana establishments shall be issued without site plan approval by the special permit granting authority. In addition to the standards set forth herein, the site plan must meet all dimensional, parking, and other requirements set forth by this Zoning Bylaw.
  - (4) License requirements.
    - (a) Copies of the complete application, to the extent legally allowed, shall be provided as an integral component of the application to the Planning Board, and no special permit application shall be deemed complete by the Planning Board until this information is provided.
    - (b) No special permit shall be granted by the Planning Board to an applicant without the medical marijuana treatment center or marijuana establishment first having been issued a provisional license from the Cannabis Control Commission pursuant to 935 CMR 500 or 935 CMR 501.
    - (c) No person shall operate a medical marijuana treatment center or marijuana establishment without having a final license from the Cannabis Control Commission.

- (5) Security plan. All applications for a special permit shall include a security plan describing all proposed security measures, including lighting, fencing, gates and alarms, and any other such measures that will satisfy the requirements of 935 CMR 500.110.
- (6) Odor control plan. All applications for a special permit shall include an odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control, including maintenance of such controls.
- (7) Management plan. All applications for special permit shall include a management plan with a comprehensive description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to the medical marijuana treatment center or marijuana establishment or off-site direct delivery.
- (8) Energy use plan. All applications for a special permit shall include an energy use plan which shall demonstrate best practices for energy conservation, water usage, and waste disposal. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- (9) Decommissioning plan. All applications for special permit shall include a plan providing for the decommissioning of the medical marijuana treatment center or marijuana establishment. Such decommission plans shall include a cost estimate provided by a qualified, third -party expert and shall detail dismantling, disposal of equipment and all other reasonably anticipated costs associated the decommissioning of the medical marijuana treatment center or marijuana establishment, along with detailed accounting of any bonds posted with the Commission in accordance with 935 CMR 500 and § 7.11D(8)(h). The special permit granting authority/Planning Board reserves the right to request a comparison estimate provided by an independent, qualified professional estimator of the Board's choosing, the cost of which shall be borne by the applicant.
- (10) Waivers. The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 or 935 CMR 501.000 granted by the Commission. The special permit granting authority shall consider said waivers based on the following Commission criteria in 935 CMR 500 or 935 CMR 501.000:
  - (a) Compliance would cause undue hardship to the investor;
  - (b) If applicable, the requestor's noncompliance does not jeopardize the health or safety of any patient or the public;
  - (c) If applicable, the requestor has instituted compensating features that are acceptable to the Planning Board; and
  - (d) The requestor provides to the Planning Board written documentation, in a form and manner determined by the Planning Board, supporting its request for a waiver.



## (11) Other requirements.

- (a) The name and address of each owner and operator of the medical marijuana treatment center or marijuana establishment facility/operation.
- (b) Proof of liability insurance coverage or maintenance of escrow as required in 935 CMR 500 and 935 CMR 501.
- (c) Evidence that the applicant has site control and right to use the site for a medical marijuana treatment center or marijuana establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
- (d) A notarized statement signed by the medical marijuana treatment center or marijuana establishment organization's chief executive officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly situated individuals and entities and their addresses. If any of the above is an entity rather than persons, the applicant must disclose the identity of all such responsible individual persons.
- (e) A detailed floor plan identifying the areas available and functional uses (including square footage).
- (f) All signage being proposed for the facility.
- (g) A pedestrian/vehicular traffic impact study to establish the medical marijuana treatment center's or marijuana establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along access areas, including, but not limited to, the public rights-of-way, will not be unreasonably obstructed.

F. Findings. In addition to the findings for a special permit or site plan approval, the special permit granting authority must also find all the following:

- (1) That the medical marijuana treatment center or marijuana establishment is consistent with and does not derogate from the purposes and intent of this section and the Zoning Bylaw;
- (2) That the medical marijuana treatment center or marijuana establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- (3) That the medical marijuana treatment center or marijuana establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
- (4) That the applicant has satisfied all of the conditions and requirements of this section and other applicable sections of this bylaw;
- (5) That the medical marijuana treatment center or marijuana establishment provides adequate security measures to ensure that no individual participant will pose a direct

threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery; and

- (6) That the medical marijuana treatment center or marijuana establishment facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.
- G. Severability. If any provision of this section is found to be invalid by a court of competent jurisdiction, the remainder of this section shall not be affected but shall remain in full force. The invalidity of any provision of this section shall not affect the validity of the remainder of this Zoning Bylaw.

## ARTICLE VIII

**Special Permits, Site Plan Review and Approval****§ 240-8.0. Special permits.**

- A. Purpose of special permits. This section of the Zoning Bylaw is enacted under the authority of MGL c. 40A, § 9, to protect the health, safety, convenience and general welfare of the inhabitants of Holland. Special permits are intended to provide a comprehensive review procedure for projects which may have significant impacts on the Town of Holland, to minimize the impacts of such development, and to ensure compliance with the following goals of the Town:
- (1) To promote development that is harmonious with surrounding areas;
  - (2) To promote the safety of vehicular and pedestrian movement within the site and in relation to the adjacent areas, highway traffic safety and protect the capability of state and local roads to conduct traffic smoothly and efficiently;
  - (3) To promote an attractive and viable residential, commercial and business districts and expand the tax base of the Town;
  - (4) To protect the rural character, environment, aesthetic visual qualities, natural environmental features, historical features and property values of the Town and neighboring properties;
  - (5) To discourage unlimited commercial strip development and curb cuts along main roads, and encourage commercial growth in the Commercial District;
  - (6) To assure adequate drainage of surface water, stormwater or groundwater.
- B. Uses requiring special permits. Certain uses, structures, or conditions are designated within Article IV, Use Regulations, of the Holland Zoning Bylaw as requiring a special permit. A special permit shall be granted only after written application to, and a hearing by, the special permit granting authority and shall be subject to the provisions of Chapter 40A of the Massachusetts General Laws and this bylaw.
- C. Authorization. This section authorizes the Planning Board or Zoning Board of Appeals to be the special permit granting authority, as specified in Article IV, Use Regulations.
- D. Special permit application. For uses requiring a special permit in Article IV of the Holland Zoning Bylaw, the current owner of record, or any person authorized in writing by the owner of record, shall file an application for a special permit with the Town Clerk pursuant to MGL c. 40A, § 9, which is required to be accompanied by the required forms and fee; and a copy of the application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the special permit granting authority.
- (1) The applicant shall file 10 copies of the application and any required supporting materials with the Town Clerk. The special permit granting authority may request additional copies as it deems necessary.
  - (2) When the application has been received in a complete form as defined by said rules, a copy shall be forwarded to the special permit granting authority. The stamp of the Town Clerk shall designate the date of filing.

- (3) The special permit application shall include an official special permit form available from the Town Clerk and a site plan stamped and signed by a registered surveyor authority or engineer or landscape architect and an endorsed site plan.
- (4) All site plans shall be prepared by a registered professional engineer, surveyor, architect, or landscape architect at a scale of one inch equals 20 feet, one inch equals 40 feet or one inch equals 80 feet, whichever is appropriate to the size of the proposal, on standard twenty-four-inch to thirty-six-inch sheets.
- (5) The following contents are required for all special permit applications:
  - (a) Name of the project, locus, date and scale plan showing the site's location, data, North arrow, and scale of the plan. All revisions occurring after original submission shall be noted and dated.
  - (b) Name and address of the owner of record, developer, and original seal of the engineer, landscape architect, architect, or surveyor, as applicable.
  - (c) A single-sheet locus plan at a scale of one inch equals 100 feet, showing the location and owner's names of all adjacent properties and those within 300 feet of the property line, and all zoning district boundaries.
  - (d) All existing lot lines, easements, and rights-of-way. Included area in acres or square feet; abutting land uses, and the location and use of structures within 300 feet of the site.
  - (e) Existing and proposed topography at a two-foot contour interval, the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding and base flood elevations and unique natural land features. Where any changes in topography are proposed, finished contours shall be shown as solid lines.
  - (f) Indicate all areas within the site and within 50 feet of the site, where ground removal or filling is proposed, and given its approximate volume in cubic yards.
  - (g) Existing and proposed structures, including dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations. Structures to be removed shall be indicated by dashed lines.
  - (h) Elevation plans and renderings at a scale of 1/4 inch equals one foot zero inch for all exterior facades of the proposed structure(s) and/or existing facades, plus additions(s) showing design features and indicating the type and color of materials to be used.
  - (i) The location of all present and proposed parking and loading areas, public and private ways, driveways, walkways, ramps, curbs, landscaping walls, fences, and access and egress points. Location type and screening details for all waste disposal containers shall also be shown.
  - (j) The location and description of all present and proposed utility systems, including sewerage or septic systems; telephone, cable television, and electrical systems; water supply system, storm drainage systems, including existing and proposed drainlines, culverts, drainage swales, catch basins, utilities, hydrants, and manholes.

- (k) The Planning Board will require soil logs, percolation tests, and storm runoff calculations for large (over 5,000 square foot building or over one acre of land) or environmentally sensitive developments (abutting or within 100 feet of wetlands and/or abutting or within 500 feet of slopes over 25°.
- (l) Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive runoff; excessive raising or lowering of the water table; and flooding of other properties, as applicable.
- (m) The locations, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- (n) Refuse and other waste disposal methods.
- (o) A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.
- (p) The location, dimensions, height, color, illumination and characteristics of existing and proposed signs. Signage must conform with § 240-7.4 of Holland Zoning Bylaw.
- (q) For alterations to any existing or new business/commercial/industrial uses, a table containing the following information:
  - [1] Maximum area of building to be used for sales offices, business, or other uses.
  - [2] Maximum number of employees, where applicable.
  - [3] Maximum seating capacity, where applicable.
  - [4] Number of parking spaces existing and required for the intended uses.
  - [5] Expected hours of operation.
- (r) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within 100 feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.
- (s) A detailed traffic impact statement is required in each case where a proposed new building, use or project will generate more than 250 trips per day, as based on the latest edition of "Trip Generation" from the Institute of Transportation Engineers. The traffic impact statement shall contain:
  - [1] The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - [2] The projected traffic flow pattern including vehicular movements at all

major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within 100 feet of the site.

- [3] A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, vehicle queues, road capacities, and impacts on intersections.
  - [4] A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
  - [5] An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
  - [6] Provision for adequate pedestrian and bicycle access and amenities, as necessary.
- (t) The special permit granting authority may require that additional information be shown on any site plan submitted with an application for a special permit. The special permit granting authority may also waive any information requirements it judges to be unnecessary to the review of a particular plan upon written request for waivers by petitioner specifying waivers requested.

E. Review procedure.

- (1) The special permit granting authority may adopt and revise reasonable regulations for the administration of this section.
- (2) The special permit granting authority shall, within 14 days of receiving a special permit application, transmit one copy each to the Building Inspector, Board of Health, Conservation Commission, Highway Department, Fire Department, Police Department, Planning Board, Zoning Board of Appeals, Select Board, and Assessor's office, as appropriate, who shall review the application and submit their written recommendations and written comments to the special permit granting authority concerning:
  - (a) The adequacy of the data and methodology used by the applicant to determine the impacts of the proposed developments;
  - (b) The effects of the projected impacts of the proposed development;
  - (c) Recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.
- (3) Failure of the bodies and boards mentioned in § 240-8.0E of this bylaw to make recommendations within 35 days of the referral of the application shall be deemed to be lack of opposition.

F. Public hearings.

- (1) A public hearing shall be held within 65 days after the filing of a special permit

application, in accordance with the procedures in MGL c. 40A, § 9, and this Zoning Bylaw. However, a public hearing shall not be held until a response has been received from the boards/departments as required herein, or the required comment period has elapsed.

- (2) In all cases when notice of a public hearing is required, the special permit granting authority shall cause to be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the date of such hearing.
- (3) In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid to "parties in interest" as defined in MGL c. 40A, § 11. The assessors maintaining any applicable tax list shall certify to the board holding the hearing the names and addresses of parties in interest, as defined in this bylaw, and such certification shall be conclusive for all purposes.
- (4) Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in the town.
- (5) As provided by MGL c. 44, § 53G, the special permit granting authority may impose reasonable fees for the employment of outside consultants engaged by the authority, for specific expert services deemed necessary by the authority to come to a final decision on an special permit application submitted. A review fee may be imposed only if the work is in connection with the applicant's specific project and all written results and reports are made part of the record before the authority. A review fee may be imposed only after the authority has complied with the Uniform Procurement Act (MGL Chapter 30B) and with the special account procedures set in MGL c. 44, § 53G.

G. Special permit decisions.

- (1) The special permit granting authority shall make a decision and file the decision with the Town Clerk on the special permit within 90 days following the close of the public hearing. Failure to take final action upon an application for a special permit within said 90 days may be deemed to be a grant of the special permit, provided the petitioner complies with the provisions of MGL c. 40A, § 9. An extension of the special permit review period may be granted if the special permit granting authority and petitioner applicant agree to an extension, in writing. A copy of such agreement shall be filed with the Town Clerk.
- (2) In accord with MGL c. 40A, § 9, special permits issued by the special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board, and a unanimous vote of a three-member board.
- (3) The decision of the Planning Board shall be filed within 14 days in the office of the

Town Clerk along with detailed reasons therefor and all plans as finally approved. Copies shall be sent to the Zoning Enforcement Officer and the Building Officer and to other parties as required under MGL Chapter 40A, the Zoning Act.

- (4) No special permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision has been recorded by the applicant or his/her agent in the Hampden County Registry of Deeds, bearing the certification of the Town Clerk that either:
  - (a) Twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or;
  - (b) An appeal has been filed and it has been dismissed or denied. The applicant shall submit proof of the recording to the Town Clerk.
- (5) Any extensions, modifications, or renewals of a special permit shall follow the same procedures as are required for the original granting of the special permit.

H. Special permit criteria for approval.

- (1) The use requested is listed in Article IV, Use Regulations, as a special permit in the district for which application is made;
- (2) Conformance with the provisions of the bylaws of the Town of Holland, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies;
- (3) Protection of Town amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic or historic features on the site;
- (4) Minimization of traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;
- (5) Mitigation of adverse impacts to the Town and private water supplies, drainage or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will unduly be subjected to hazards affecting health, safety or the general welfare;
- (6) Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers and retention of open space or agricultural land;
- (7) Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees;
- (8) Adequacy of the methods to ensure that the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories;
- (9) Adequacy of the methods to ensure that the use shall comply with any and all applicable special district regulations and special use regulations;



- (10) Adequacy of the measures to prevent significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for maximizing groundwater recharge;
  - (11) Provisions for adequate methods of disposal and recycling of sewage, refuse or other wastes generated by the proposed use;
  - (12) Minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses of screening or vegetated buffer zones.
- I. Special permit conditions, safeguards, and limitations. The special permit granting authority may also impose, in accordance with MGL Chapter 40A, such conditions and safeguards as it finds or otherwise serve the purposes of this section, including, but not limited to, the following:
- (1) Requirement of screening, buffers or planting strips, fences or walls;
  - (2) Limitations of signs or other advertising features beyond the minimum established under § 240-7.4 of the Holland Zoning Bylaw;
  - (3) Limitations of number or density of occupants, times or nature of operations, size scale, or other characteristics or the use or facility;
  - (4) Regulation of the number, design and location of access drives or circulation facilities;
  - (5) Requirements of off-street parking, loading or other features beyond the minimum otherwise required by the Holland Zoning Bylaw;
  - (6) Requirements of front, side or rear yards greater than the minimum otherwise prescribed by the Holland Zoning Bylaw;
  - (7) Any other conditions, safeguards, and limitations in time and use which are consistent with the purpose of the Holland Zoning Bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the special permit granting authority.
- J. Filing and enforcement of special permit.
- (1) Once a special permit has been issued, the application for a building permit shall be filed with the Zoning Enforcement Officer/Building Inspector, accompanied by the plan approved by the special permit granting authority and an application indicating all conditions set forth by the special permit granting authority when approving the plan. The Zoning Enforcement Officer/Building Inspector shall verify that the building permit application for each lot is in conformity with the special permit.
  - (2) Special permits shall expire if a substantial use thereof has not commenced, except for good cause, within two years of special permit approval (exclusive of time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof).
  - (3) The petitioner must file any request for extension for good cause in writing with the

special permit granting authority at least two weeks prior to a regularly scheduled special permit granting authority meeting in order for that item to be posted on its agenda per the rules of the Open Meeting Law.<sup>132</sup> The petitioner must also provide evidence to back up the cause for the extension. The Planning Board will make a decision on the request at the next regularly scheduled Planning Board meeting. A simple majority is required. The special permit granting authority will notify the petitioner, the Building Inspector, and the Town Clerk.

- (4) The special permit granting authority may require the posting of a bond or other adequate security to assure compliance with the special permit, site plan and conditions and may suspend any permit or license when work is not performed as required.
  - (5) This bylaw shall be enforced by the Zoning Enforcement Officer. No building shall be built or altered and no use of land or a building shall be begun or changed without a permit having been issued by the Building Inspector. Any person violating this bylaw, the conditions of a permit granted under this bylaw, or any decision by the Zoning Board of Appeals or Planning Board under this bylaw shall be liable to a fine of not more than \$300 for each violation.
  - (6) Construction or operation under any building permit or special permit shall conform to any subsequent amendment of this section unless the use or construction is commenced within six months after the issuance of the permit and, in cases of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. Said six-month period shall not include the time needed to pursue or await determination of an appeal of a Zoning Board of Appeals special permit decision.
  - (7) In addition to the provisions for enforcement described above, the provisions of this bylaw, the conditions of a Zoning Board of Appeals or Planning Board or Zoning Enforcement Officer under this section may be enforced by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D, by the Zoning Enforcement Officer, who shall impose a civil penalty of \$50 for each such violation.
- K. Method of appeal. Any person, any municipal officer, or any municipal board aggrieved by a decision of the Planning Board may appeal to a court of competent jurisdiction by bringing action within 20 days after the decision has been filed with the Town Clerk, in accordance with MGL c. 40A, § 17.

#### **§ 240-8.1. Administrative site plan review.**

- A. Purpose. This section of the Town Zoning Bylaw is enacted to protect the health, safety, convenience and general welfare of the inhabitants of Holland. Administrative site plan reviews are reserved for projects that are allowed by right but still require a review by Town bodies and boards before final approval can be granted. Administrative site plan reviews are intended to provide review of procedure for projects which may have impacts on the Town of Holland, to minimize the impacts of such development, and to ensure compliance with the following goals of the Town:

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132. Editor's Note: See MGL c. 30A, §§ 18 through 25.

- (1) To protect the health, safety, and general welfare of the inhabitants of the Town of Holland;
  - (2) To ensure that new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town of Holland and to assure adequate drainage of surface water, groundwater and stormwater and safe vehicular and pedestrian access;
  - (3) To regulate rather than prohibit use through reasonable conditions concerning the location of buildings, signs, open space and landscaping, parking areas, pedestrian movement, storage areas, access and egress, drainage, sewerage, water supply, and fire safety.
- B. Uses requiring administrative site plan review. The building permit shall not be issued for any of the following uses unless a site plan has been approved and endorsed in accordance with this section:
- (1) Certain uses, structures, or conditions designated within Article IV, Use Regulations, of the Holland Zoning Bylaw as requiring an administrative site plan review;
  - (2) Expansion of any existing use requiring an administrative site plan review as designated within Article IV, Use Regulations, of the Holland Zoning Bylaw resulting in a floor space increase of 25% or 5,000 square feet, whichever is less;
  - (3) Resumption of any use described above discontinued for more than two years.
- C. Authorization. This section authorizes the Planning Board to be the administrative site plan review authority, as specified in Article IV, Use Regulations.
- D. Administrative site plan review application procedure.
- (1) For uses requiring an administrative site plan review in Article IV, Use Regulations, of the Holland Zoning Bylaw, the current owner of record, or any person authorized in writing by the owner of record, shall file an application for an administrative site plan review with the Planning Board accompanied by the required application form and fee.
  - (2) The applicant shall file nine copies of the application and any required supporting materials with the Planning Board for review. The Planning Board may request additional copies as it deems necessary.
  - (3) When the application has been received in a complete form as defined by said rules, a copy shall be forwarded to the Town Clerk. The stamp of the Town Clerk shall designate the date of filing.
  - (4) The Planning Board, within 14 days of the receipt of the administrative site plan review application, shall transmit to the Building Inspector, the Conservation Commission, and the Zoning Board of Appeals, and other appropriate Town boards, commissions or departments copies of the application and site plan. The boards receiving these copies shall have up to 30 days to make recommendations to the Planning Board. Failure of the Boards to make recommendations within 30 days of referring the application shall be deemed to be lack of opposition.

- (5) A public hearing is not required for an administrative site plan review. If the applicant filing an administrative site plan review request a hearing or if, after studying the plan, the Planning Board is disposed to disapprove the plan or subject it to conditions which are opposed by the developer, the Board must honor the request for a hearing.
  - (a) If a hearing is requested, the Planning Board must hold a public hearing within 45 days of the request for a hearing and after due consideration of the recommendations received from boards and bodies mentioned in § 240-8.1D(4). The Board shall take final action within 30 days of the time of the close of hearing.
  - (b) In all cases when notice of a public hearing is required, the Planning Board holding such hearing shall publish a notice of the date, time, location, and topic of the public hearing in a newspaper of general circulation in Holland at least once in each of two successive weeks. The first publication shall be published at least 14 days before the day of the hearing. The Planning Board shall also post a notice in a conspicuous place in the town hall for a period of not less than 14 days before the date of such hearing.
- (6) As provided by MGL c. 44, § 53G, the Planning Board may impose reasonable fees for the employment of outside consultants engaged by the Board, for specific expert services deemed necessary by the Board to come to a final decision on an administrative site plan review application submitted. A review fee may be imposed only if the work is in connections with the applicant's specific project and all written results and reports are made part of the record before the Board. A review fee may be imposed only after the Board has complied with the Uniform Procurement Act (MGL Chapter 30B) and with the special account procedures set in MGL c. 44, § 53G.

E. Administrative site plan review contents.

- (1) An architect, landscape architect, or professional engineer duly licensed by the Commonwealth of Massachusetts shall prepare, sign and affix his/her seal on all site plans unless the Planning Board waives this requirement because of unusually simple circumstances. All site plans shall be on standard twenty-four-inch by thirty-six-inch sheets at a scale of one inch equaling 20 feet, with additional narrative as necessary. Site plans shall include the following information:
  - (a) Name of the project, locus, date and scale plan;
  - (b) Name and address of the owner of record, developer, and seal of the engineer, landscape architect or engineer;
  - (c) The location and boundaries of the lot, adjacent streets or ways, and any relevant zoning district boundaries;
  - (d) Existing and proposed topography at the two foot contour interval the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding and base flood elevations and unique natural land features;
  - (e) Existing and proposed structures, including dimensions and elevations; and all exterior entrances and exits;
  - (f) The location of existing and proposed parking and loading areas, public and

private ways, driveways, walkways, sidewalks, curbing, access and egress points;

- (g) The location and description of all proposed septic systems, a soil percolation test, water supply, storm drainage systems, including existing and proposed drain lines, culverts, drainage swales, catch basins, drainage calculations, and subdrainage, utilities, hydrants, manholes, lighting fixtures, and refuse and other waste disposal methods and facilities;
  - (h) Proposed landscape features including the location and a description of buffers, screening, fencing, and plantings, including the size and type of plants, material;
  - (i) Location, dimensions, height, color, illumination and characteristics of existing and proposed signs that are compatible with Holland Zoning Bylaw § 240-7.4;
  - (j) The location and a description of proposed open space or recreation areas;
  - (k) A lighting plan, including parking lot and building exterior lighting and any provision of light reduction through the use of shields, screening, or similar actions;
  - (l) A plan for the control of erosion, dust, and silt, both during and after construction sequencing, temporary and permanent erosion control, and protection of water bodies;
  - (m) For commercial uses, maximum areas of the building to be used for selling, offices, business or other uses, number of employees, seating capacity where applicable, and number of parking spaces required for intended use.
- (2) The Planning Board may waive any information requirements in § 240-8.1E it judges to be unnecessary to the review of a particular plan.

F. Administrative site plan review decisions.

- (1) The Planning Board shall make a decision within 65 days of receiving completed site plan application and supporting plans and documents unless a public hearing is requested and in such case then a decision will be made within 30 days of the close of the public hearing.
- (2) The Planning Board's final action in writing shall consist of either:
  - (a) Approval of the site plan based on a determination that the proposed project will constitute a suitable development and is in compliance with the standards set forth in this bylaw;
  - (b) Disapproval of the site plan based on a determination that the application was incomplete and insufficient information was submitted to review the proposal; or
  - (c) Approval of the project subject to any conditions, modifications and restrictions which will ensure that the project meets the criteria for review.

G. Criteria for review. The following criteria and guidelines shall be used by the Planning Board in evaluating the site plan and all information submitted as part of the application:

- (1) The site plan conforms with all appropriate provisions of the Zoning Bylaw.
- (2) The site plan minimizes traffic and safety impacts of the proposed development and maximizes the convenience and safety of vehicular and pedestrian movement within the site.
- (3) The proposed development, to the extent feasible:
  - (a) Is integrated into the existing landscape and protects abutting properties;
  - (b) Minimizes adverse environmental impacts on such features as wetlands, floodplains, and aquifer recharge areas;
  - (c) Minimizes obstruction of scenic views from publicly accessible locations;
  - (d) Preserves unique natural or historical features;
  - (e) Minimizes removal of trees, vegetation, and soil and grade changes;
  - (f) Maximizes open space retention;
  - (g) Screens objectionable features from neighboring properties and roadways;
  - (h) Complies with all state and federal requirements for handicap access; and
  - (i) Controls off-site impacts from noise, temperature and wind conditions.
- (4) The architectural design, layout and landscaping of the proposed development is in harmony with the historic, rural character of the neighborhood and the Town of Holland.
- (5) The proposed development is served with adequate water supply and waste disposal systems and will not place excessive demands on Town services and infrastructure.
- (6) The site plan shows adequate measures to prevent pollution of surface water or groundwater, to minimize erosion and sedimentation, to prevent changes in groundwater levels, and potential for flooding, and a stormwater management plan prepared in accordance with good engineering, hydrologic and pollution control practices.

H. Filing and enforcement.

- (1) The Planning Board may require the posting of a bond or other adequate security to assure compliance with the site plan and conditions and may suspend any permit or license when work is not performed as required.
- (2) Any approval of a site plan issued under this section shall lapse within one year if a substantially complete use (as defined in this Zoning Bylaw) thereof has not commenced sooner except for good cause.
  - (a) The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws shall be included within the one-year time limit.
  - (b) The petitioner must file any request for extension for good cause in writing with

the Planning Board at least two weeks prior to a regularly scheduled Planning Board meeting in order for that item to be posted on its agenda per the rules of the Open Meeting Law.<sup>133</sup> The petitioner must also provide evidence to back up the cause for the extension. The Planning Board will make a decision on the request at the next regularly scheduled Planning Board meeting. A simple majority is required. The Planning Board will notify the petitioner, the Building inspector, and the Town Clerk.

- (3) The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

- I. Method of appeal. Any person, any municipal officer, or any municipal board aggrieved by a decision of the Planning Board may appeal to a court of competent jurisdiction by bringing action within 20 days after the decision has been filed with the Town Clerk, in accordance with MGL c. 40A, § 17.

#### **§ 240-8.2. Site plan approval. [Added 6-27-2001 STM]**

##### **A. Purpose.**

- (1) The purpose of the site plan approval is to ensure that development is suitable and designed in a manner that will not result in a detriment to the neighborhood or to the environment and will provide for the safety and general welfare of the inhabitants of the Town.
- (2) It is further the intent of the site plan approval to ensure that development is consistent with the Zoning Bylaw and building regulations.

##### **B. Authorization. Site plan approval is to be granted by the Planning Board for the Town of Holland.**

##### **C. Projects requiring site plan approval.**

- (1) Any non-single-family unit, non-single-family outbuilding or additions to existing structures require site plan approval.
- (2) The Planning Board may waive the requirement for site plan approval if the Board determines that the proposed construction or alteration will have minimal effect relative to the criteria set forth in this section.<sup>134</sup>

##### **D. Site plan requirements. All site plans shall be on standard 24 inches by 36 inches sheets prepared by a registered architect, landscape architect or professional engineer and shall show:**

- (1) The location, boundaries and owner of record of the site, adjacent streets or ways and the location and owners' names of all abutting properties.
- (2) Existing and proposed topography of the site and topography of areas within 100 feet of the site, showing contours, location of wetlands, streams, water bodies, drainage swales, area subject to flooding and unique natural land features.

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**133.Editor's Note: See MGL c. 30A, §§ 18 through 25.**

**134.Editor's Note: Amendment pending.**

- (3) Existing and proposed structures, including dimensions and elevations.
- (4) The location of proposed streets, parking and loading areas, driveways, walkways, access and egress points.
- (5) The location and a description of proposed septic systems, water supply, storm drainage systems, utilities and waste and other refuse disposal systems.
- (6) The location and a description of proposed open space or recreation areas and landscape features, including the location and description of screening, fencing and planting.
- (7) A complete list of chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

E. Procedures for site plan approval.

- (1) The original site plan shall be filed with the Town Clerk and 10 copies concurrently filed with the Planning Board. The date of receipt by the Town Clerk shall be considered the date on which the application has been filed with the Planning Board.
- (2) All applications for site plan approval shall be accompanied by cash or check payable to the Town of Holland in the amount of \$100, plus \$0.05/square foot of building. When the site plan approval and the special permit hearing are held concurrently, the site plan approval fee is waived and the fee will be addressed in Article VIII, § 240-8.2F.
- (3) Copies of the site plan will be distributed by the Planning Board to the Building Inspector, the Conservation Commission, the Board of Health, the Economic Development Board and the Highway, Police and Fire Departments, who shall review the application and submit recommendations to the Planning Board. Failure to make recommendations within 45 days of the referral shall be deemed to mean lack of opposition.
- (4) The Planning Board shall hold a hearing pursuant to public notice as required by MGL c. 40A, § 9.
- (5) After due consideration of the recommendations of other boards and departments, the Planning Board shall take final action within 135 days from the filing of the application.
- (6) If the proposed development requires a special permit, then the requirements of MGL c. 40A, § 9, and Article VIII of the Town of Holland Zoning Bylaw take precedence.
- (7) For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

F. Site plan approval criteria.

- (1) Site plan approval criteria shall be the same as the criteria for special permit approval



specified in § 240-8.0 of the Zoning Bylaw of the Town of Holland. The criteria shall be considered by the aforementioned boards, departments and officials in determining whether approval of the site plan is consistent with the purposes of this bylaw. These criteria are not intended to be exhaustive, and specific additional standards may be applied for a project if, in the opinion of the Planning Board, they are reasonably necessary. The issues represented by the criteria must be addressed to the satisfaction of the Planning Board in the site plan.

- (2) One item to be added to the criteria for site plan approval is as follows: electric, telephone, cable TV, and other utilities are required to be placed underground where physically and environmentally feasible.

G. Final decision.

- (1) The Planning Board's decision shall consist of either:
  - (a) A written approval of the proposed project;
  - (b) A written denial of the application, stating the reason(s) for the denial; or
  - (c) A written approval subject to any conditions, modifications and restrictions as the Planning Board may deem necessary to satisfy this bylaw.
- (2) The Planning Board's decision shall be mailed to the applicant and filed with the Town Clerk. A copy shall also be sent to the Building Inspector.
- (3) No certificate of occupancy shall be issued for any structure subject to site plan approval unless it and all of its related facilities substantially conform to the approved site plan.

H. Enforcement.

- (1) Approval of the site plan may be extended for one additional year at the discretion of the Planning Board after the receipt of a written request from the owner or his designated agent and for good cause shown. If one year has elapsed from the date of approval and no extensions have been granted or, if granted, then at the end of the one-year extension no construction has been started, the site plan approval shall become null and void without requiring any further action by the Planning Board.
- (2) Violations of the approved site plan or any conditions of approval shall be subject to the provisions of § 240-9.0 of the Zoning Bylaw.<sup>135</sup>

- I. Appeal process. If an aggrieved person wishes to appeal the decision of the Planning Board, the procedures as outlined in MGL c. 40A, § 8, must be followed except where a site plan approval is issued in conjunction with a special permit, wherein MGL c. 40A, § 17, must be followed.

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135. Editor's Note: So in original. For violations and penalties of the Zoning Bylaw, see § 240-8.0J(6) and (7).

ARTICLE IX  
**Administration and Enforcement**

**§ 240-9.0. Zoning Board of Appeals.**

- A. Establishment. There is hereby established a Zoning Board of Appeals of three members and two associate members to be appointed by the Select Board, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this bylaw in the manner prescribed in Chapter 40A of the General Laws. The Zoning Board of Appeals shall have the following powers:
- (1) Appeals. To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provision of Chapter 40A, General Laws, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A, General Laws, or of this bylaw.
  - (2) Special permits. To grant a special permit to expand or alter an existing nonconforming building as provided by sections of this bylaw when it shall have found that the use involved will not be substantially more detrimental to the established or future character of the neighborhood and Town and subject to appropriate conditions or safeguards if deemed necessary.
  - (3) Variances. To authorize upon appeal, or upon petition, a variance from the terms of this bylaw with respect to particular land or structures if the Zoning Board of Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting them but not affecting generally the zoning district in which they are located, a literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

**§ 240-9.1. Zoning Enforcement Officer.**

- A. Appointment. The Zoning Enforcement Officer shall be appointed annually by the Select Board.
- B. Duties and responsibilities.
- (1) The Zoning Enforcement Officer shall exercise such powers as may be delegated to him pursuant to the provisions of MGL c. 40A, § 7.
  - (2) It shall be the duty of the Superintendent of Buildings to enforce the provisions of this bylaw, as amended. He shall refuse to grant a permit for the construction or alteration of any building, if the building as constructed or altered would be in violation of any of the provisions of this bylaw, as amended; and state and municipal officers shall refuse any permit or license for a new use of a building, structure or land which use would be in violation of any such ordinance or amendment thereof.

**§ 240-9.11. Amendment.**

This bylaw may be amended from time to time at an Annual or Special Town Meeting in accord with the provisions of MGL c. 40A, § 5.

**§ 240-9.12. Severability.**

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

**Division 2: Regulations**

**Chapter 325**

**SUBDIVISION REGULATIONS**

**[HISTORY: Adopted by the Planning Board of the Town of Holland. Amendments noted where applicable.]**

ARTICLE I  
**General Provisions**

**§ 325-1. Purpose.**<sup>136</sup>

"The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions. Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable." (MGL c. 41, § 81M)

**§ 325-2. Adoption of standards.**

Under the authority vested in the Planning Board of the Town of Holland by MGL c. 41, § 81Q, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Holland. Said rules and regulations supersede the rules and regulations which first took on effect in the Town of Holland on the 13th day of October 1970.

**§ 325-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**APPROVAL NOT REQUIRED PLANS —**

- A. An approval not required plan shows the division of land in which every lot within the division has frontage on:
- (1) A public way, or a way certified as used and maintained as a public way; or
  - (2) On a way shown on a plan heretofore approved by this Board in accordance with the Subdivision Control Law<sup>137</sup>; or

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<sup>136</sup>.Editor's Note: Amendment pending.

<sup>137</sup>.Editor's Note: See MGL c. 41, §§ 81K to 81GG.

- (3) A way in existence when the Subdivision Control Law became effective in the Town of Holland, having, in the opinion of the Board, sufficient width, suitable grade, and adequate construction to provide for the needs of the land abutting thereon or services thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

SUBDIVISION REQUIRING PLANNING BOARD APPROVAL — A "subdivision requiring Planning Board approval" is the division of a tract of land into two or more lots and the laying out of proposed ways and municipal services to service said lots.

ARTICLE II  
**Submission Procedure**

**§ 325-4. Approval not required plans.**

- A. This type of subdivision requires a sign off by the Planning Board in an open meeting, stating that the division of land does not constitute a full subdivision; that is, that the roadways shown on the plan which serve the lots being created are adequate to provide vehicular access and that the lots have adequate frontage and area.
- B. An ANR may also be signed on a currently inadequate road when it is agreed to and the subdivider presents acceptable plans and surety to bring the road up to a standard which is acceptable to the Town.

**§ 325-5. ANR plan approval procedures.**

- A. ANR plans must be prepared as follows:
  - (1) ANR plans must be prepared by a registered land surveyor. The plans must also be stamped by a registered engineer if they contain engineering design.
  - (2) The plans must include a locus, indicating the relation of the parcel to neighboring roads.
  - (3) The entire parcel from which lots are being subdivided should be shown on the plan.
  - (4) Owners of all abutting property according to the most recent tax list should be clearly indicated.
- B. ANR plans must be submitted at a regularly scheduled Planning Board meeting. Plans are usually approved on the night they are presented. However, should the Board be unfamiliar with the road in question or should there be other questions, the Board may elect to hold the plan for up to the 21 days prior to endorsing a plan. A majority vote of the Board is required to approve an ANR plan.

**§ 325-6. Subdivision requiring Planning Board approval.**

- A. The applicant or his/her representative may submit a preliminary plan for informal informational meeting with the Planning Board and Board of Health. Said preliminary plan should show:
  - (1) Subdivision name, boundaries, date, scale, legend, and title "Preliminary Plan."
  - (2) Names of owners of record, applicant, designer, and/or engineer/surveyor.
  - (3) Names of abutters, existing and proposed streets, ways, easements and public areas.
  - (4) Approximate boundaries and lot sizes of proposed lots.
  - (5) Approximate topography showing adjacent roadways, and any outstanding topographic features.
- B. Preliminary plan.

## (1) General.

- (a) A preliminary plan is optional in regard to residential subdivisions.
  - (b) A preliminary plan is mandatory in regard to nonresidential subdivisions.
  - (c) The applicant or his/her representative may submit a preliminary plan to the Planning Board and to the Board of Health for discussion and approval, approval with modifications or disapproval by each Board. The submission of such a preliminary plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. A properly executed application, Form B, shall be filed with the preliminary plan submitted to the Planning Board.<sup>138</sup>
  - (d) The applicant shall file by delivery or registered mail a notice with the Town Clerk, stating the date of submission for such approval of a preliminary plan and accompanied by a copy of the completed application form (Form B).
- (2) Approval. Within 45 days of submission of said plan, each Board must notify the applicant and Town Clerk, by certified mail, of the action taken on the plan. In the case of disapproval, the Board shall state in detail its reasons therefor. Such approval does not constitute approval of subdivision.

## C. Definitive plan.

## (1) General.

- (a) The definitive plan must be submitted within seven months after the submission of the preliminary plan and must be evolved from it to detail exemptions from zoning changes and amendments to the subdivision rules and regulations.
- (b) Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:
  - [1] An original drawing of the definitive plan and three prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.
  - [2] A properly executed application, Form C, and the applicable filing fee.<sup>139</sup>
  - [3] Drainage calculations.
- (c) The applicant shall file by delivery or registered mail a notice with the Town Clerk, stating the date of submission for such approval and accompanied by a copy of the completed application (Form C).
- (d) If the plan shows a residential or nonresidential subdivision and a preliminary plan has been submitted and acted on (or has been approved by failure of the Planning Board to act upon the plan within the prescribed statutory time limits), the Planning Board must take action on the plan within 90 days of the date of

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138.Editor's Note: Form B is on file in the Town office.

139.Editor's Note: Form C is on file in the Town office.



submission of the definitive plan.

- (e) If the plan shows a residential subdivision and a preliminary plan was not filed, the Planning Board must take action on the plan within 135 days of the date of submission of the definitive plan.
- (2) Contents. The definitive plan shall be prepared by a registered land surveyor. If the definitive plans shows proposed drainage structure and other engineering details, then it must bear the seal of both a registered land surveyor and engineer. The plan shall be clear and legibly drawn in black india ink upon tracing cloth or Mylar. The plan shall be at a scale of one inch equals 40 feet, or such other scale as the Planning Board may accept, to show details clearly and adequately. Sheet sizes shall preferably not exceed 24 inches by 36 inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The definitive plan shall contain the following information:
- (a) Subdivision name, boundaries, North point, date and scale.
  - (b) Name and address or record owner, subdivider, surveyor and engineer.
  - (c) Names of all abutters as they appear on the most recent tax list.
  - (d) Lines of existing and proposed streets, lots, easements and public or common areas within the subdivision (the proposed names of streets shall be shown in pencil until they have been approved by the Planning Board). Street names cannot be duplicated.
  - (e) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
  - (f) Location of all permanent monuments properly identified as to whether existing or proposed.
  - (g) Location, names and present widths of streets bounding, approaching or within reasonable proximity to the subdivision.
  - (h) The plan shall show any areas within the Floodplain District, wetland areas and unusual topographic features within 100 feet of the subdivision perimeter.
  - (i) Indication of purpose of easements.
  - (j) A suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person).
  - (k) Existing and proposed topography at a suitable contour intervals if required by the Planning Board.
  - (l) Existing profiles on the exterior lines and proposed profile of the center line of proposed streets at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Planning Board.
  - (m) Proposed layout of storm drainage.

- (n) If the subdivision is to be serviced by municipal water and sewer, proposed layout of water supply and sewage disposal systems shall be included on the plans.
- (3) Board of Health Review as to suitability of land. At the time of the definitive plan, the subdivider shall also file with the Board of Health two prints of the definitive plan, dark line on white background. The subdivider shall furnish the Board of Health with all such data as required by said Board's rules. The Board of Health shall, within 45 days after filing of the plan, report to the Planning Board, in writing, approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific as to which, if any, of the areas shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report and where possible shall make recommendations for the adjustment thereof. Every lot so located that it cannot be served by a connection to the municipal sewer system shall be provided with a sanitary waste disposal system satisfactory to the Board of Health.
- (4) Public hearing. Before approval, approval with modifications or disapproval of the definitive plan is given, the Planning Board shall hold a public hearing. Notice of the time and place of the hearing, along with the subject matter and sufficient information for identification, shall be given in said notice at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Holland, once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing or, if there is no such newspaper, then by posting such notice in a conspicuous place in the Town for a period of not less than 14 days before the day of such hearing, and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in such plan as appearing in the most recent tax list.
- (5) Performance guarantee.
  - (a) After the expiration of the statutory twenty-day appeal period and before placing its endorsement upon the definitive plan, the Planning Board shall require a performance guarantee to insure construction of ways and installation of municipal services.
  - (b) Pursuant to subdivision approval granted hereunder, the Planning Board will require that one or more performance bonds be posted with the Treasurer of the Town to guarantee completion in strict accordance with the plans and drawings submitted of all public improvements. It may also require that an amount be included for land restoration not having to do with the construction of public improvements. The amount for land restoration shall be \$10,000 per acre, or such other amount as determined by the Town Engineer. The amount of the security required shall be established by a preliminary estimate from the proponents engineer, confirmed or added to by the Planning Board.
  - (c) The method of securing performance shall be a bond, a letter of credit, a tri-party agreement with a financial institution acceptable to the Board, or a bank passbook. A covenant, running with the land, is acceptable only before construction is initiated, at which time the financial surety must be posted. Subdivisions large enough to reasonably be built in phases may establish

financial surety only for those phases on which construction is initiated, maintaining covenant provisions on the remaining phases.

- (d) The Planning Board may derive use of the secured funds in the event that the proponent does not complete all public improvements within two years of the date of approval. All approvals of definitive plans shall be conditioned on the completion of public improvements within two years of the date of approval.

- [1] One or more extensions, not to exceed one year in length, may be granted for sufficient cause. At the time of granting of the extension, the amount of any secured funds shall be reviewed to determine if it remains sufficient to cover current costs. If the funds are determined to be insufficient, such additional funds as required shall be added to the total of secured funds.

- [2] Should public improvements not be completed within the permitted time, the project approval shall be null and void, with further action by the Planning Board not required. Any project having become null and void by this means shall lose zoning protection from the provisions of MGL c. 40A, § 6.

D. Release of performance guarantee. The penal sum of any secured amounts may from time to time be reduced so that the amount bonded, deposited or retained continues to reflect the actual expected cost of work remaining to be completed.

E. Release of performance guarantee. Upon the completion of the construction of ways and installation of municipal services in accordance with the rules and regulations of the Planning Board, the applicant shall send by registered mail to the Town Clerk and the Planning Board a written statement that the said work has been completed in accordance with the plans as submitted and approved.

- (1) If the Board determines that the work has been completed in accordance with the rules and regulations and the plans as submitted and approved, it shall release the form of performance guarantee.
- (2) If the Board determines that the work has not been completed in compliance with the rules and regulations and the plans as submitted and approved, it shall specify in a notice sent by registered mail to the applicant and the Town Clerk the details of how the construction does not comply. If the Board fails to reply within 45 days of receipt of such statement by the Town Clerk, all obligations under said performance guarantee shall cease and terminate by operation of law and any deposit shall be returned and any such covenant shall become void. In the event that the 45 days expires without due action by the Board, the Town Clerk shall issue a certificate to that effect, duly acknowledged, which may be recorded.
- (3) Certificate of approval/disapproval. The action of the Planning Board in respect to such plans shall be certified and filed with the Town Clerk and sent by delivery or by registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the detailed reasons for its action. Final approval, if granted, shall be endorsed upon the original drawing of the definitive plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board) but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the

Planning Board with the Town Clerk, and said Clerk has notified the Planning Board that no appeal has been filed, and until satisfactory performance guarantee has been posted with the Board. After the definitive plan has been approved and endorsed, the applicant shall furnish the Planning Board with three prints thereof. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

**ARTICLE III**  
**Design Standards**

**§ 325-7. Streets.**

**A. Location and alignment.**

- (1) All streets in the subdivision shall be designed so that, in the judgement of the Planning Board, they will provide safe vehicular travel. Due consideration shall be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- (2) The proposed streets shall conform, so far as practicable, to the Master or Study Plan when adopted in whole or in part by the Planning Board.
- (3) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the judgment of the Planning Board, such strips shall be in the public interest.
- (4) Provisions satisfactory to the Planning Board shall be made for the proper projection of streets or for access to adjoining property which is not yet subdivided.
- (5) Street jogs with center-line offsets of less than 125 feet should be avoided.
- (6) The minimum center line radii of curved streets shall be 100 feet. Greater radii may be required for principal streets.
- (7) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.
- (8) Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than 30 feet.

**B. Width.**

- (1) Minimum street right-of-way width and paved width shall be as follows:

Type of Street	Right-of-Way Width (feet)	Paved Width (feet)
Principal street	60	38
Secondary street	40	24

- (2) The Planning Board may require a greater width if it deems it is necessary.

**C. Grade.**

- (1) Grades of streets shall be not less than 0.5%. Grades shall not be more than 6.0% for principal streets nor more than 8.0% for secondary streets.

**D. Dead-end streets.**

- (1) Dead-end streets shall not be longer than 500 feet unless, in the judgement of the Planning Board, a greater length is necessitated by topography or other local

conditions.

- (2) Dead-end street shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet and a property line diameter of at least 115 feet.

E. Drainage.

- (1) Storm drains, culverts and related facilities shall be designed to permit the unimpeded flow of all natural watercourses, to ensure adequate drainage at all low points along streets, to control erosion and to intercept stormwater runoff at intervals reasonably related to the extent and grade of the area being drained; and to the maximum extent feasible, stormwater shall be recharged to the ground rather than piped off the premises. The rate of surface runoff from a site shall not be increased after construction.<sup>140</sup>
- (2) Storm drains shall be based on a twenty-five-year frequency storm, and culverts shall be based on a fifty-year frequency storm, with consideration given to damage avoidance for a 100-year storm.
- (3) Design shall be based upon any of the following runoff volume calculation methods: Rational, Hydrograph, Stankowski, or computer software adaptation of these runoff value calculations, provided that their data and graphic printouts allow review and evaluation. Water velocities in pipes and gutters shall be between two feet per second and 10 feet per second, and not more than five feet per second on ground surfaces.
- (4) A catch-basin-to-manhole drain configuration shall be used. All drain pipes shall be at least 12 inches in diameter made of reinforced concrete conforming to Massachusetts DPW specifications for Class II pipe or such higher class as may be required by depth of cover, which shall be less than 24 inches nor more than 10 feet, subject to Planning Board review.
- (5) Catch basins will be required on both sides of the roadway on continuous grade at intervals of no more than 300 feet. Any catch basins and manholes used shall be at least six feet deep and four feet in diameter (inside measurements) with a thirty-inch or greater sump below the pipe invert, and shall be constructed of concrete blocks or precast concrete units. Manhole covers and grates shall be placed so as to cause no hazard to bicycles. Manholes shall not be spaced more than 300 feet apart. Detention facilities will be required subject to the review of the Planning Board.
- (6) Proper connections shall be made with any existing drains in adjacent streets or easements which prove adequate to accommodate the drainage flow from the subdivision. In the absence of such facilities or inadequacy of the same, it will be the responsibility of the developer to extend drains from the subdivision as required to properly dispose of all drainage from said subdivision in a manner determined to be proper by the Board.
- (7) Lots shall be prepared and graded consistent with existing drainage patterns in and around the subdivision and in such a manner that development of the lot shall not cause detrimental drainage on another lot or on areas outside the subdivision. If

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140. Editor's Note: Amendment pending.

provision is necessary to carry drainage to or across a lot, an easement of drainage right-of-way of minimum width of 20 feet and proper side slope shall be provided.

F. Other design criteria.

- (1) Side slopes shall not exceed two feet vertical to one foot horizontal.
- (2) Cross grades shall be:
  - (a) Gravel, one-half inch per foot.
  - (b) Bituminous concrete, one-fourth inch per foot.
  - (c) Cement concrete, one-eighth inch per foot.

**§ 325-8. Utilities.**

- A. The placement of electric, telephone or other utility lines and equipment shall be underground and so located as to not be in the traveled way or a roadway, or create an adverse impact on groundwater levels.
- B. Inasmuch as is possible, all main lines for water, sewer, and utilities shall be located in the sidewalk area or easements parallel to the right-of-way.
- C. Connections for sewer, drain, gas, oil, electric and telephone service from the main structure in the way to the exterior line of the way shall be constructed for each lot whether or not there is a building thereon.

**§ 325-9. Sidewalks.**

- A. Sidewalks shall be required as follows:
  - (1) Primary street, both sides of the road.
  - (2) Secondary street, one side of the road.
- B. Sidewalks shall be a minimum of four feet in width and separated from the roadway by a minimum one-foot grassed strip.
- C. Minimum acceptable surface material shall be processed pea stone and stone dust compacted to a thickness of four inches, placed on six inches of compacted gravel borrow.

**§ 325-10. Dry hydrants.**

Dry hydrants shall be located and constructed in accordance with specifications approved by the Town of Holland Fire Chief.

**§ 325-11. Easements.**

- A. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary.
- B. Said easements shall be a minimum of 20 feet.
- C. Where a subdivision or commercial development is traversed by a watercourse,

drainageway, channel or stream, the Planning Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the line of such watercourse, drainageway, channel or stream. The Town of Holland Conservation Commission shall determine if the submitted easement is adequate.

**§ 325-12. Monuments.**

- A. Monuments shall be installed at all street intersections and where, in the opinion of the Planning Board, permanent boundaries are needed. Property line boundaries shall be marked with plastic stakes.
- B. Said permanent boundaries shall be of granite material or of reinforced concrete, 48 inches in height, and at least four inches square (16 square inches).
- C. Said monuments shall be set in compacted gravel with the top six inches exposed.

**§ 325-13. Roadway construction standards.<sup>141</sup>**

The following standards are meant to represent the general road construction standards in the Town of Holland. The Massachusetts Department of Transportation Standard Specifications for Highways and Bridges shall be used as a guide to resolve all disputes regarding construction practices and materials (See Attachment A<sup>142</sup>).

- A. The proposed roadway right-of-way shall be cleared of all debris, deleterious and/or organic material. Trees within the layout but not in the roadway determined by the Planning Board to be of value shall be provided suitable protection by the contractor.
- B. All unsuitable material such as peat, silt, clay, ledge or stone greater than six inches shall be removed to a depth of 36 inches below finished grade.
- C. The roadway foundation shall consist of gravel borrow with no stone larger than six inches and compacted in twelve-inch layers.
  - (1) If the moisture content of the gravel borrow is not suitable to reach 90% compaction, the contractor shall spray water on the material to achieve 90% compaction.
  - (2) Under no circumstances shall puddling or jetting of water be allowed.
- D. The subbase shall consist of gravel borrow or processed gravel with no stone larger than three inches. Said material shall be compacted to a thickness of 1 1/2 inches.
- E. The base shall consist of bituminous concrete Type 1 base compacted to a thickness of 1 1/2 inches.
- F. The wearing surface shall consist of bituminous concrete Type 1 top compacted to a thickness of 1 1/2 inches.
- G. The Planning Board, on receipt of a bond determined to be suitable to cover all costs of placing the final wearing course of bituminous concrete, may waive installation of the final wearing course on roadways until such time that the roadways will not be subject to

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**141.Editor's Note: Amendment pending.**

**142.Editor's Note: Attachment A is included as an attachment to this chapter.**



damage by construction equipment.

- H. Roadway edge. The roadway edge shall consist of machine-laid bituminous concrete berm known as a "Type A Berm" (see Attachment B<sup>143</sup>). The berm shall create a gutter of 1 1/2 inches at the joint of the roadway edge and the berm edge.

#### **§ 325-14. Driveways.**

- A. To avoid surface drainage entering roadways, all grading shall be on a down slope at 1/4 inches per foot from the edge of hardened surface to the roadway layout line.
- B. No alteration shall be made to any driveway without securing a new permit.
- C. The radii of private driveways shall not extend beyond the applicant's property line unless the applicant has obtained a deeded easement permitting such encroachment
- D. Driveways will not be approved at roadway intersections. Said drives shall be located a minimum of 50 feet from the crossroads, as measured from the edge of the crossroads' hardened surface to the nearest driveway edge.
- E. Driveways shall enter the roadway at an angle between 60° and 90°.
- F. A driveway which had a grade greater than 12 feet vertical to 100 feet horizontal must secure a special permit from the Planning Board
- G. All commercial drives and large traffic generators shall conform to those standards as defined by the Massachusetts Department of Transportation Manual on Uniform Traffic Control Devices for Streets and Highways.<sup>144</sup>
- H. In order to reduce the number of curb cuts in Business Zones, the use of common drives and service roads is encouraged.<sup>145</sup>

#### **§ 325-15. Landscaping.**

Within the subdivision rights-of-way and lands to be presented to the Town:

- A. The Planning Board may (1) require landscaping for screening or other purposes, (2) require existing trees and other vegetation be preserved, and/or (3) require the planting of additional trees as prescribed under this section. Any tree which is designated to be preserved by the Planning Board, and which is subsequently damaged during construction of the project, shall be repaired or replaced at the subdivider's expense
- B. Trees shall be placed so that there are two or more trees for every 100 feet of roadway length or portion thereof. For the purpose of this calculation, roadway length shall include all new roadways proposed, in addition to all existing road frontage for which new building lots are proposed.
- C. The subdivider shall provide two copies of the landscape plan at a scale of one inch equals 40 feet to the Planning Board for its approval. The landscape plan shall show, as a

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143.Editor's Note: Attachment B is included as an attachment to this chapter.

144.Editor's Note: Amendment pending.

145.Editor's Note: Amendment pending.

minimum, paved road layout; road right-of-way; location, diameter and species of all existing trees; location, diameter and species of all new trees; illustration of the planting technique to be used for each species of tree subject to general soil conditions found on the site; location of all underground and aboveground utilities and proposed driveway cuts; and other natural and man-made distinguishing features which are located in the road right-of-way or lands to be presented to the Town.

- D. Tree species which are proposed for planting shall be listed by species and variety on the landscape plan. The proposed list of trees shall be reviewed and approved by the Planning Board.
- E. All new trees shall be planted in accordance with the landscape plan as approved as under § 325-15C above, and shall be planted:
  - (1) After the street construction has been completed, including the installation of all underground and aboveground utilities, base course of pavement, and all subgrade fills and cuts within the road layout have been made; and
  - (2) Before the subdivider requests acceptance and/or release of the subdivision.
- F. Each new tree shall be guaranteed by the subdivider for a period of two growing seasons. Any tree deemed by the Planning Board to be unsatisfactory within two growing seasons shall be removed and replaced with a tree of a species which is acceptable to the Planning Board, at the expense of the subdivider.
- G. If the subdivider determines that the total number of trees shown on the landscape plan cannot be planted within the area or the subdivision due to site and/or development conditions, the subdivider may request a waiver from the tree planting regulations. The request shall be made to the Planning Board, and the Planning Board shall approve or deny such request. For each tree waived by the Planning Board, the subdivider shall pay a fee of \$250.

ARTICLE IV  
**Enforcement.**<sup>146</sup>

**§ 325-16. Violations and penalties.**

Violation of any of the provisions of Articles II and III of these regulations shall be punishable by a fine of \$300.

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**146.Editor's Note: Amendment pending.**

**Chapter 375****ZONING BOARD OF APPEALS REGULATIONS**

**[HISTORY: Adopted by the Zoning Board of Appeals of the Town of Holland.**

**Amendments noted where applicable.]**

**§ 375-1. Establishment; authority.**

The Zoning Board of Appeals is established under the provisions of Chapter 40A of the Massachusetts General Laws and is authorized by the Zoning Bylaw of the Town of Holland, under certain circumstances, to hear and determine appeals from decisions of certain officials effecting enforcement of the zoning bylaw, to grant variances pursuant to Section 10 of the Zoning Act (MGL c. 40A, § 10), and to grant certain special permits pursuant to provisions of the Zoning Bylaw.

**§ 375-2. Procedure sheet.<sup>147</sup>**

The Building Inspector will initiate a procedure sheet. He will approve or disapprove the application. The procedure sheet will guide the applicant through the process of meeting the Town agencies necessary to complete the application. The Building Inspector will indicate on the sheet which agencies must be contacted. If the building application is disapproved because of existing bylaw(s), a proceeding before the Zoning Board of Appeals may be started by filing a petition with the Town Clerk on a form provided by the Town Clerk.

**§ 375-3. Petition for appeal.**

The petition shall contain the following:

- A. The name of the owner of record of the property to which the petition relates.
- B. The name, address and telephone number of the petitioner and mailing address.
- C. The Assessors' map, block and lot number of the property.
- D. A brief description of the relief requested.
- E. Detailed building plans showing all outside dimensions, proposed additions and/or alterations (one original and 10 copies).
- F. A plot plan showing the location and dimensions of all buildings (existing and proposed) on the property with setbacks from the property line (one original and 10 copies), when filing petition with Town Clerk, one copy, 11 x 17, for Board signatures. The Board reserves the right to ask for an instrument survey when it deems necessary. Mortgage plot plans are not acceptable.
- G. A copy of current tax bill.

**§ 375-4. Public hearing fee.**

The petitioner shall deposit with the Town Clerk \$125 (nonrefundable) to cover the costs

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**147.Editor's Note: Amendment pending.**

incurred in advertising, mailings and conducting a public hearing.

**§ 375-5. Dates and notice of hearings.<sup>148</sup>**

The Board's hearings will normally be conducted on the second and fourth Tuesdays of the month at the Town Hall. Notice of all hearings will be posted at the Town Hall and the Stonebridge Press at least two weeks before the hearing date.

**§ 375-6. Petitions and appeals dates.**

Petitions and appeals will normally be scheduled for hearing at the first regular hearing date that will allow time for the required legal notice to be published and distributed.

**§ 375-7. Submittal of documents.**

At the public hearing, the petitioner should submit all documents relied upon in support of the petition and should be prepared to present any testimony or argument in its support.

**§ 375-8. Petition wording.**

Technical errors in the wording of the petition concerning the form or relief requested does not justify withholding relief the Board finds the petitioner is entitled to based upon the facts known to the Board.

**§ 375-9. Adjournment of hearing.**

The Board may, in its discretion, adjourn any hearing to the next convenient hearing date in order to give the Board, petitioner or any other interested party time to present additional material.

**§ 375-10. Public record of hearing proceeding.**

The original petition and all documents submitted by the petitioner or by other interested parties and any other documents designated by the Board shall be included as part of the public record of the Board's proceedings.

**§ 375-11. Proceedings and decision to be filed with Town Clerk. [Amended 3-22-2016<sup>149</sup>]**

The Board of Appeals will file with the Town Clerk a detailed record of its proceedings and its official actions with respect to each hearing after the decision is made. The Town Clerk date stamps the Appeals Board decision. This date starts a twenty-day period during which a notice of appeal may be received. Copies with the time of filing noted thereon will be delivered to the Select Board, the Building Inspector, and other interested officials and will be mailed to the petitioner and, upon request, to other interested parties. After the twenty-day waiting period, the petitioner will obtain from the Town Clerk the original signed and dated decision and present it to the Registry of Deeds, Hampden County. Return the proof of the recorded deed to the Building Inspector, who will issue a building permit.

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148.Editor's Note: Amendment pending.

149.Editor's Note: Amendment pending.

**Disposition List****Chapter DL****DISPOSITION LIST**

**The following is a chronological listing of legislation of the Town of Holland adopted since 2019, indicating for each its inclusion in the Code or the reason for exclusion. The last legislation reviewed for the original publication of the Code was Article 22 of the May 30, 2023, Annual Town Meeting. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]**

**§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM Art. 20	5-21-2019	Boards, Commissions and Committees: Finance Board Amendment, Capital Planning Committee Amendment, Lake Oversight Committee Amendment	Ch. 7, Art. I, Art. VIII, Art. IX
ATM Art. 21	5-21-2019	Streets, Sidewalks and Driveways Amendment	Ch. 183
ATM Art. 22	5-21-2019	Zoning Amendment	Ch. 240
STM Art. 21	11-17-2020	Zoning Amendment	Ch. 240
STM Art. 22	11-17-2020	Zoning Amendment	Ch. 240
ATM Art. 22	5-30-2023	Zoning Amendment	Ch. 240