

ARTICLE 11

SPECIAL REGULATIONS

Section 11.01 - General

ART. 86, ATM 3/78

In addition to the general conditions set forth in Section 10.11 of this Bylaw for all special permits, the following special conditions shall apply to the following uses in this article listed as special permits in various districts in the Table of Use Regulations.

Section 11.02 - Environmental Performance

No new building or part thereof shall be constructed or used, and no premises shall be used, and no building or part thereof shall be altered, enlarged, reconstructed or used as follows:

- a. For any purpose which by the emission or discharge of fumes, vapor, gas, dust, offensive odors, chemicals, poisonous fluids, or substances, refuse, organic matter or excrement, the causing of noise or vibrations, or by unduly increasing the risk from fire or explosion, or otherwise, would be dangerous or injurious to the public health or safety.
- b. For any purpose which would be for any reason injurious to the health, safety, morals or welfare of the community or harmful to property therein.

Section 11.03 - Removal of Sand, Gravel, Quarry or Other Earth Materials

ART. 12, ATM 5/91

No sod, loam, sand, gravel or quarry stone shall be removed for sale (except when incidental to and in conformity with the construction of a building for which a permit has been issued in accordance with the Building Laws), except by permission of the ZBA.

Section 11.04 - Floodplain District

- a. OBJECTIVES. The objectives of this District are to promote:
 1. The health and safety of the occupants of lands subject to seasonal or periodic flooding in the Mill Brook, Alewife Brook, Mystic River, and Mystic Lakes floodplain, as shown on the zoning overlay map of the Town of Arlington.
 2. To prevent the reduction of the water-carrying capacity of streams, brooks, rivers, and drainage courses by prohibiting the destruction or alteration of their natural character, and by preventing encroachment by future development, both public and private, in the floodway. A floodway includes the normal channel of a river or stream and those portions of the floodplains adjoining the normal channel which are reasonably required to carry off the flood flow.
 3. The preservation of the natural flood control characteristics and the water storage capacity of the floodplain.
 4. To protect the public from hazard and loss through the regulation of future development of lands adjoining such watercourses.

5. The safety and purity of water; control and containment of sewage; safety of gas, electric, fuel, and other utilities from breaking, leaking, shortcircuiting, grounding, igniting, electrocuting or any other dangers due to flooding.

ART. 47, STM 3/82; ART. 7, ATM 5/04, ART. 2, STM 5/10

- b. DEFINITION. The Floodplain District is superimposed over any other district established by this Bylaw. The 100-year floodplain is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to seasonal or periodic flooding by the watercourse or water body at a storm frequency of 100 years. Specifically, the Floodplain District includes those areas along the Mill Brook, Alewife Brook, Mystic River, Spy Pond, Arlington Reservoir, and Mystic Lakes which are in the 100-year floodplain as established on the Middlesex County Flood Insurance Rate Maps (FIRMS) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the 100-year floodplain shown on the Middlesex County FIRMS (panel numbers 25017C0412E, 25017C0416E, 25017C0417E, 25017C0418E, and 25017C0419E), dated June 4, 2010, and further defined by the Middlesex County Flood Insurance Report (FIS), dated June 4, 2010. The FIRMS and FIS Report are incorporated herein by reference and are on file with the Town Clerk, Arlington Redevelopment Board, Director of Inspections, and Conservation Commission.

ART. 46, STM 3/82; ART. 6, ATM 4/98; ART. 7, ATM 5/04, ART 2., STM, 5/10

- c. INTERPRETATION AND APPLICATION. Any proposed use, structure, development, filling, grading, or excavation within the Floodplain District shall be governed by all regulations of this Section 11.04, Section 11.05 (Inland Wetland District), G.L. c. 131, § 40, Wetlands Protection Regulations of the Town Bylaws (Title V, Article 8), Department of Environmental Protection (DEP) 310 CMR 10.00, Inland Wetlands Restriction (DEP) 310 CMR 13.00, and the section of the Massachusetts State Building Code that addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, 'Flood Resistant Construction and Construction in Coastal Dunes', and shall require a building permit. The extent of the Floodplain District shall be determined by the Inspector of Buildings under Section 3.05(g) of the bylaw.

ART. 46, STM 3/82; ART. 4, ATM 5/91, ART. 2, STM, 5/10, ART. 11, ATM, 4/11

- d. PERMITTED USES. Mobile homes shall not be permitted at any location in the Floodplain District, and no construction, development, or filling shall be permitted in the regulatory floodway as defined in the Middlesex County FIRMS. Certain uses may be permitted in the Floodplain District as follows:

1. As a Right

- (a) The following outdoor uses shall be permitted as a right subject to the further provisions of this Section 11.04(d) and provided no buildings or structures are erected: From Section 5.04: Uses 3.01, 3.02, 4.01, 4.08; also, wildlife management areas, foot, bicycle, and/or horse paths.
- (b) For single family detached dwellings, two-family dwellings, or duplex houses existing at the time this Section is advertised (August 1975), the expansion of these (or their accessory) uses to a maximum of fifteen (15) percent of the lot coverage existing when this section is enacted, provided that such expansions conform to Section 6.00, and do not constitute substantial improvement of a structure. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which exceeds 50 percent of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Structures erected or expanded under this subsection 11.04(d)(1) shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.

2. By Special Permit.

ART. 46, STM 3/82; ART. 4, ATM 5/91; ART. 7, ATM 5/04, ART. 2, STM, 5/10, ART. 10, ATM 4/11

No structure or building shall be erected, constructed, substantially improved, enlarged (except as provided in 11.04(d)(1)(b)), or otherwise created or moved, no earth or other material dumped, filled, excavated, or transferred, unless all the following conditions are found to exist as part of the granting of a Special Permit by the ZBA or, in cases subject to Environmental Design Review, the granting of a Special Permit by the ARB:

2.1 The proposed use, including filling or excavating, when combined with all existing uses, will not increase the water surface elevation of the 100-year flood;

2.2 The proposed use shall comply with the regulations as amended in Massachusetts Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00 and Inland Wetlands Restriction (DEP) 310 CMR 13.00 and in the Conservation Commission's Wetlands Regulations promulgated under the Arlington Wetlands Bylaw (Title V, Article 8).

2.3 Base Flood Elevation Data is required for proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

The provisions of this subsection 11.04(d)(2) shall not apply to the reconstruction or repair of a structure, unless it constitutes substantial improvements as defined in 11.04 (d)(1.b), existing at the time of advertisement of this section (August 1975) after a fire or other casualty as provided in Section 9.06 of this Bylaw. However, major repairs shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.

2.4 In Zones A 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.

ART. 10, ATM 4/88, ART. 2, STM, 5/10, ART. 10, ATM 4/11

e. PERMIT AND PROCEDURE. Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental Protection, and the Massachusetts Highway Department under Chapter 131 of the General Laws, Acts Relating to the Protection of the Inland Wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for Special Permit with accompanying plans shall also be sent at the same time by the applicant to the Inspector of Buildings, Board of Health, the Conservation Commission, Town Engineer, and, if applicable, the ARB for their recommendations as to their approval, disapproval or appropriate recommendations.

f. REQUIRED SUBMITTALS

1. Submission of a location plan at the scale of 1" = 600' showing the lot(s) to be developed, lot lines within which the development is proposed, and tie-in to the nearest road intersection.

2. A site plan at a scale of 1" = 50' shall be prepared by a registered land surveyor or registered professional engineer. The site plan shall be submitted to the ZBA and shall show at least the following:
 - (a) The location, boundaries, and dimension of each lot in question.
 - (b) Two-foot contours of the existing and proposed land surface.
 - (c) The location of existing and proposed structures, watercourses, and drainage easements, means of access, and drainage.

ART 2, STM, 5/10

g. BOARD OF APPEALS PROCEDURE.

1. The ZBA shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Board of Health, the Conservation Commission, Town Engineer, and the ARB or until 30 days have elapsed after receipt of such application and plans without submission of a report.
2. The ZBA may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

ART 2, STM, 5/10

- h. OCCUPANCY PERMIT. No occupancy permit shall be issued for special permit uses under subsection 11.04(d)(2) until the Inspector of Buildings, and the Board of Health, the Conservation Commission ZBA and the ARB have received a certified plan showing the foundation and flood elevations, elevations of the completed construction, and until all requirements of all permits are satisfied.
- i. AREAS, OPEN SPACE, AND YARD REGULATIONS. The portion of any lot within the Floodplain District may be used to meet the lot area, open space and yard requirements for the District in which the remainder of the lot is situated.

ART 10, ATM, 4/11

- j. EXEMPTIONS IN THE FLOODPLAIN DISTRICT. Where a proposed use is determined to fall within the limits of the Floodplain District, but the applicant for the proposed use determines that the location for his proposed use is not included in the definition of the Floodplain District, said use may be exempt by the ZBA or the ARB, as the case may be, from the provisions of this section if the applicant provides sufficient evidence for the ZBA or the ARB in cases subject to Environmental Design Review to clearly determine that the land in question should not be subject to the provisions of this Section.

If it is determined that an area of significant size should no longer be included within the Floodplain District due to a natural or man-made event which has altered the boundary, the floodline determining the boundaries of the Floodplain District may be changed subject to the provisions of Section 12.01 of this Bylaw provided the new floodline to be adopted has been established in accordance with accepted engineering practice and certified by a registered professional engineer.

ART 2, STM, 5/10

- k. NOTIFICATION OF ALTERATION. In a riverine situation, the Director of Planning and Community Development shall notify the following of any alteration or relocation of a watercourse:

- Chief Executive Officers in Adjacent Communities
- NFIP State Coordinator
 Massachusetts Department of Conservation and Recreation
 251 Causeway Street, Suite 600-700
 Boston, MA 02114-2104
- NFIP Program Specialist
 Federal Emergency Management Agency, Region I
 99 High Street, 6th Floor
 Boston, MA 02110

Section 11.05 - Inland Wetland District

- a. PURPOSE. The purpose of this district is:
1. To preserve and protect the streams, water bodies, and other watercourses, including wetlands and marshlands, in the Town of Arlington.
 2. To protect the health and safety of persons and property against the hazards of flooding and contamination.
 3. To preserve and maintain the groundwater table for potential water supply purposes.
 4. To protect the community against the detrimental use and development of lands adjoining such watercourses.
 5. To conserve the watershed areas of the Town of Arlington for the health, safety, and welfare of the public.

ART. 4, ATM 5/91

- b. DEFINITION. The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:
1. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands. These include lakes, ponds, swamps, and marshes.
 2. All land area along all rivers, brooks, and streams for a horizontal distance of 25 feet from the center line thereof are included in the Inland Wetland District.
 3. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.
- c. INTERPRETATION AND APPLICATION. Any proposed use to be located within the limits of the Inland Wetland District as determined by the Inspector of Buildings under Section 3.05 of this Bylaw shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.

ART 10, ATM 4/11

- d. PERMITTED USE. Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:
1. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 9.06 of this Bylaw.
 2. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw becomes effective.
 3. No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued.

ART. 10, ATM 4/88, ART. 10, ATM 4/11

- e. PERMIT AND PROCEDURE. Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental Quality Engineering, and the Massachusetts Department of Public Works under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for special permit with accompanying plans shall also be sent to the Inspector of Buildings, Board of Health, the Conservation Commission, Town Engineer, and, if applicable, the ARB for their recommendations as to their approval, disapproval or appropriate recommendations.
- f. REQUIRED SUBMITTALS
1. Submission of a location plan at a scale of 1" = 600' showing the lot(s) to be developed, lot(s) lines within which the development is proposed, and tie-in to the nearest road intersection.
 2. A site plan at a scale of 1" = 50' shall be prepared by a registered land surveyor or registered professional engineer. The site plan shall be submitted to the ZBA and shall show at least the following:
 - (a) The location, boundaries, and dimension of each lot in question.
 - (b) Two-foot contours of the existing and proposed land surface.

- (c) The locations of existing and proposed structures, watercourses, and drainage easements, means of access, drainage, and sewage disposal facilities.
 - (d) The elevation of the basement and first floor.
 - (e) The area and location of leaching fields.
- g. DEVELOPMENT CONDITIONS. For the development of land within the Inland Wetland District, the following conditions shall apply:
1. If the lot(s) is to be served by a public sewerage system, the following conditions shall apply:
 - (a) A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.
 - (b) The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.
 - (c) If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.
 - (d) Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.
 2. If the lot(s) is to be served by an on-lot septic system, the following conditions including those listed previously shall apply:
 - (a) The leaching area designed for use, as well as a reserved area for future expansion or total future use, shall be plotted with dimensions on the site plan.
 - (b) A minimum of two percolation tests per leaching area shall be performed. The maximum groundwater table shall be determined during the last two weeks of March or the first three weeks of April.

At least two observation pits at least six (6) feet in depth shall be dug to determine soil profiles. The observation pits may be dug during other times of the year, and shall be accompanied by a detailed report compiled by a soil scientist or qualified engineer.
 - (c) The leaching areas shall not be constructed in areas where the maximum groundwater elevation is less than 4 feet below the bottom of the leaching areas.
 3. The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, shortcircuiting, grounding, igniting or electrocuting; obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater

resources or increase stormwater run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.

h. BOARD OF APPEALS PROCEDURE.

1. The ZBA shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Board of Health, the Conservation Commission, Town Engineer, and the ARB, or until 30 days have elapsed after receipt of such plan without the submission of a report.
2. The ZBA may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

i. OCCUPANCY PERMIT. No occupancy permit shall be issued until the Inspector of Buildings and the Board of Health, Conservation Commission, Town Engineer, and the ARB have received a certified plan showing the foundation and flood elevations, grading of the premises, elevations of the completed construction, and all elevations of the various elements that make up the sewage disposal system, and until all requirements of all permits are satisfied.

j. AREAS AND YARD REGULATIONS. The portion of any lot within the Inland Wetland District may be used to meet the lot area, open space and yard requirements for the District in which the remainder of the lot is situated.

k. EXEMPTIONS IN THE INLAND WETLAND DISTRICT. Where a proposed use is determined to fall within the limits of the Inland Wetland District, but the applicant for the proposed use determines that the location for his proposed use is not wet or subject to periodic flooding and should not, therefore, be included in the definition of the Inland Wetland District, said use may be exempt by the ZBA from the provisions of this section if the applicant provides sufficient evidence for the ZBA to clearly determine that the land in question should not be subject to the provisions of this Section.

Section 11.06 - Environmental Design Review

a. PURPOSE. The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The environmental design review process is intended to promote the specific purpose listed in Section 1.03 of this Bylaw. For the purpose of implementation of this Section, the ARB is designated as the Special Permit Granting Authority in accordance with the provisions of Chapter 40A, Section 1.

b. APPLICATION.

ART. 74, ATM 3/77; ART. 80, ATM 4/80; ART. 8, ATM 4/94; ART. 11, STM 5/97; ART. 9, ATM 4/98,
ART. 8, ATM 4/11

1. In any instance where a new structure, or a new outdoor use, or an exterior addition or a change in use a) requires a building permit, b) is subject to a special permit in accordance with Section 5.04, Table of Use Regulations, or alters the facade in a manner that affects the architectural integrity of the structure, and c) is one of the uses included in subparagraphs (a), (b), (c), (d), (e), (f), (g), or (h) below, the aforementioned special permit shall be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards hereinafter specified.

- (a) Construction or reconstruction on a site abutting
Massachusetts Avenue
Pleasant Street
Mystic & Medford Streets between Massachusetts Avenue and Chestnut Street
Broadway
Minuteman Bikeway

ART. 16, ATM 4/01; ART. 5, ATM 4/05

- (b) Six or more dwelling units on the premises, whether contained in one or more structures or on one or more contiguous lots, constructed within a two year period.
- (c) Gasoline service stations.

ART. 13, ATM 5/91

- (d) Lodging house, bed and breakfast, bed and breakfast home or a rehabilitation residence with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
- (e) Nonresidential uses and hotels or motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.
- (f) Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

ART. 6, ATM 4/02

- (g) Outdoor uses.

ART. 17, ATM 5/11

- (h) Temporary, seasonal signage in accordance with an overall signage plan at a fenced athletic field with one or more permanent structures to seat more than 300 persons, which signage may be in effect between March 15 and December 15 of any calendar year.

ART.2, STM 9/04

- 2. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District shall be subject to the environmental design review procedures and standards hereinafter specified.

ART. 7, ATM 5/07

- 3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.

*c. PERMIT AND PROCEDURE.

- 1. Uses subject to the provisions of this section may be allowed by special permit. Any person desiring such a permit shall submit an application to the ARB in accordance with the application procedure for special permits.

A copy of the application with the accompanying plans, photographs, and sign permit application shall be submitted at the same time to the Department of Planning and Community Development.

- 2. Planned Unit Development District. Every developer in a Planned Unit Development district shall file an application for an environmental design review. The application shall include the material listed in 11.06(d), as well as the following:

- (a) The plans shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the building(s), setbacks, and all other required dimensions, elevations, and measurements and further that the plan be signed under the penalties of perjury.
- (b) The corner points of the lot (or lots under common ownership) and the change of direction of lines to be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker, and shall be so marked.

The ARB shall review the plans and model and may grant a special permit subject to the conditions and safeguards listed in Section 10.11(b). The ARB for stated reasons may deny approval of a special permit or may approve a special permit without a finding of hardship.

The site plan shall be subject to the standards listed in Section 11.06(f) and the ARB shall make a determination that the project meets these standards.

ART.102, ATM 3/83

Before granting a special permit, the ARB shall hold a public hearing, notice of which shall be given in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen (14) days before the date of hearing, and to owners of all property abutting the proposed development or land in the same ownership or contiguous ownership, and to all property owners deemed by the ARB to be affected thereby. The ARB shall make a copy of the site plan, the model, the application and any other supporting material submitted, immediately available to the Department of Planning and Community Development and they shall have an opportunity to prepare written reports with recommendations to be submitted to the ARB before or at the public hearing. The failure of the Department of Planning and Community Development to submit written reports or to give an oral report at the public hearing shall not invalidate action by the ARB. A favorable decision by the ARB shall require the votes of at least four members of said Board.

ART. 17, ATM 5/11

- d. **REQUIRED SUBMITTALS.** In addition to the site plan required for special permits in Section 10.11(c) of this Bylaw, the application shall be accompanied by the following:
 - 1. **Model.** An inexpensive study model or final presentation model at a minimum scale of 1" = 40' showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes in use which increase gross floor area by less than 100 percent.)
 - 2. **Drawing of Existing Conditions.** A drawing (at a minimum of 1" = 20' unless another scale is found suitable by the Department of Planning and Community Development) showing the location, type, size, or dimension of existing trees, rock masses, existing topography at two (2) foot contours, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit, all existing trees, rock masses, and other natural features shall be retained until a special permit is approved.

*See enclosed flow chart found in Art. 10.

3. Drawing of Proposal.

- (a) Structure: a drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.
- (b) Landscape: a drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed topography at two (2) foot contours.

4. Photographs. Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.

5. Impact Statement. Statement by applicant with explanation of how each of the environmental design review standards is incorporated into the design of the proposed development. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.

6. Application for permit and accompanying plans as specified under Section 10.05 for each sign that is to be erected on the proposed structure(s).

ART. 17, ATM 5/11

7. In lieu of the required submittals listed above, an application for a special permit under Use 8.24 of Section 5.04 shall include an overall signage plan comprised of the information required under Section 7.08(b) as well as perspectives, renderings, photographs, models, or other representation sufficient to show the nature of the proposed overall signage plan and its effect on the immediate surroundings.

e. ARLINGTON REDEVELOPMENT BOARD PROCEDURE. The ARB shall within 10 days refer the proposal and model thereof to the Department of Planning and Community Development which for the purposes of this section shall serve in an advisory capacity to the ARB. The Department of Planning and Community Development shall evaluate the proposed use on the basis of the standards set forth in paragraph f. of this section and Section 10.11(a), using outside consulting services when appropriate, and shall submit its findings and recommendations in a design review report to the ARB which specifically addresses each standard individually.

The ARB shall not take final action on an application for a special permit under this section until it has received the design review report or until 30 days have elapsed after submittal of said proposal to the Department of Planning and Community Development.

The ARB shall not deny a special permit required by this section unless it finds that the proposed use does not comply with the standards listed in paragraph f. to such a degree that such use would result in a substantial adverse impact upon the character of the neighborhood in which the use is proposed, or of the town and upon traffic, utilities and public or private investments therein, thereby conflicting with the purposes of this Bylaw.

f. ENVIRONMENTAL DESIGN REVIEW STANDARDS. The following standards shall be utilized by the Arlington Redevelopment Board and the Department of Planning and Community Development in reviewing all site and building plans. These standards are intended to provide a frame of reference for

the applicant in the development of site and building plans as well as a method of review for the reviewing authority. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in subsections (1) through (11) below shall also apply to all accessory buildings, structures, free-standing signs and other site features, however related to the major buildings or structures.

1. Preservation of Landscape. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
2. Relation of Buildings to Environment. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Arlington Redevelopment Board may require a modification in massing so as to reduce the effect of shadows on abutting property in an R0, R1 or R2 district or on public open space.

ART. 15, ATM 5/91

3. Open Space. All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance.

ART.5, ATM 4/04

4. Circulation. With respect to vehicular, pedestrian and bicycle circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of vehicle parking and bicycle parking areas, including bicycle parking spaces required by Section 8.13 that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

ART. 8, ATM 6/05

5. Surface Water Drainage. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Available Best Management Practices for the site should be employed, and include site planning to minimize impervious surface and reduce clearing and re-grading. Best Management Practices may include erosion control and stormwater treatment by means of swales, filters, plantings, roof gardens, native vegetation, and leaching catchbasins. Stormwater should be treated at least minimally on the development site; that which cannot be handled on site shall be removed from all roofs, canopies, paved and pooling areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

In accordance with Section 10.11, b, the Board may require from any applicant, after consultation with the Director of Public Works, security satisfactory to the Board to insure the maintenance of all stormwater facilities such as catch basins, leaching catch basins, detention basins, swales, etc. within the site. The Board may use funds provided by such security to conduct maintenance that the applicant fails to do.

The Board may adjust in its sole discretion the amount and type of financial security such that it is satisfied that the amount is sufficient to provide for the future maintenance needs.

6. Utility Service. Electric, telephone, cable TV and other such lines and equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.
7. Advertising Features. The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.
8. Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
9. Safety. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.
10. Heritage. With respect to Arlington's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
11. Microclimate. With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment.

ART. 12, ATM 4/08

12. Sustainable Building and Site Design. Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership in Energy and Environmental Design (LEED[®]) checklist, appropriate to the type of development, annotated with narrative description, that indicates how the LEED[®] performance objectives will be incorporated into the project.

Section 11.07 - Filling of Any Water or Wet Area

For the filling in of any pond, lake, swamp, or other existing body of water or wet area, and the filling in of any swale, valley, or other area or depression, where such filling in requires an amount of fill equivalent to five hundred (500) cubic yards or more, or where the area to be filled in exceeds ten thousand (10,000) square feet and where such filling has received prior approval of the appropriate state officials under the applicable provisions of Chapter 131 of the General Laws, the following conditions apply:

- a. A location plan at a scale of one (1) inch equals six hundred (600) feet showing the area to be filled in, property lines within which the filling is proposed and tie-in to the nearest road intersection shall be submitted.
- b. A site plan shall be submitted to a scale of one (1) inch equals forty (40) feet of the premises and surrounding area within one hundred (100) feet showing, in addition to a. above, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered professional engineer or registered land surveyor.
- c. Provision shall be made for temporary and permanent drainage of the site.
- d. Fills shall be limited to terrace fills which are not to exceed ten (10) feet at any one (1) time nor be within ten (10) feet of an adjacent property line or any cut.
- e. Regrading of all parts of the slopes resulting from such fill shall be carried out.
- f. At least four (4) inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces with seeding with a perennial cover crop, reseeding as necessary to assure uniform growth and soil surface stabilization.
- g. A plan for lighting if night operation is contemplated shall be submitted.
- h. Where any fill will have a depth of ten (10) feet or more and create a slope of more than one in two, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.
- i. The planned filling in shall be consistent with any recreation, conservation and open space plan as prepared by the ARB or the Department of Planning and Community Development.
- j. Documentation shall be submitted as to the effect of such filling in on drainage both within the immediate area and sufficiently far downstream as required by the Building Inspector and in accordance with Section 11.04.

Section 11.08 - Affordable Housing Requirements

ART. 16, ATM 4/01

- a. **PURPOSE.** The purpose of these requirements is to promote the public health, safety and welfare by encouraging the expansion and upgrading of the Town's housing stock, especially its affordable housing; to provide for a full range of housing choices for households of all incomes, ages, and sizes; to minimize the displacement of lower income Arlington residents; and to increase the production of affordable housing to meet employment needs.
- b. **APPLICATION.** The provisions of this Section 11.08 shall apply to all new Residential projects, including Phased or Segmented Developments, with six or more Units subject to Environmental Design Review pursuant to Section 11.06(b).

c. DEFINITIONS. The following definitions shall apply only to Section 11.08:

ART. 9, ATM 5/07

Affordable Units:

Rental Units priced such that the rent (including utilities) shall not exceed 30% of the income of a household at 60% of median income; or, for homeownership units, priced such that the annual debt service on a mortgage plus taxes, insurance, and condominium fees (assuming a 5% down payment) shall not exceed 30% of the income of a household at 70% of median income.

ART. 9, ATM 5/07

Eligible Household:

For ownership units, a household whose total income does not exceed 80% of the Median Income of households in the Boston metropolitan area as defined by the U.S. Department of Housing and Urban Development adjusted for household size. For rental units, a household whose total income does not exceed 70% of the Median Income of households in the Boston metropolitan area as defined by the U.S. Department of Housing and Urban Development, adjusted for household size.

Fair Market Rent:

An amount determined by the U.S. Department of Housing and Urban Development, and used by the Arlington Housing Authority to determine the maximum rental payment to be paid to an owner under the Section 8 program. Said amount is adjusted for unit size and an allowance for utility costs.

Median Income:

The income set forth in or calculated based on U.S. Department of Housing and Urban Development regulations, as amended.

Phased or Segmented Project:

A project on one lot, or two or more adjoining lots in common ownership or common control for which special permits or building permits are sought within a period of two years from the first date of application for any special or building permits for the Project.

Project:

Developments subject to the requirements of Section 11.08.

ART. 5, ATM 4/05, ART. 14, ATM, 4/11

Residential:

Use items 1.01a, 1.02a, 1.03, 1.04, 1.05, 1.07 and 1.10 listed in Table 5.04.

Units:

Dwelling Units or Lodging Units.

d. REQUIREMENTS

1. Fifteen percent (15%) of the Residential Units in new Projects shall be Affordable Units. In determining the total number of Affordable Units required, calculation of a fractional unit of .5 or more shall be regarded as a whole unit.

ART. 9, ATM 5/07

2. Affordable Units' prices shall be calculated such that household size matches the number of bedrooms plus one.

ART. 9, ATM 5/07

3. Affordable Units shall conform to all requirements for inclusion on the state's Subsidized Housing Inventory.

4. Affordable Units shall be located on the Project site.
 - (a) In exceptional circumstances the ARB may allow the developer to make a financial contribution to the Affordable Housing Trust Fund in lieu of providing Affordable Units, if it finds that:
 - (i) it is in the best interest of the Town to do so, or
 - (ii) the provision of Affordable Units would result in a hardship such as rendering the Project economically infeasible.
 - (b) The financial contribution for each Unit shall be equal to the difference between the fair market value of a market-rate unit and the price of an Affordable Unit, and shall be payable in full prior to issuance of a final occupancy permit.

ART. 9, ATM 5/07

- (c) Affordable Units shall be dispersed throughout the project and shall be comparable to market-rate units in terms of location, quality and character, room size, number of rooms, number of bedrooms and external appearance.

e. INCENTIVE

1. Notwithstanding the special permit requirement in Section 8.12(a)(10), the applicant shall have the option to reduce the number of spaces required in the Table of Off-Street Parking Regulations by up to 10%.

ART. 6, ATM 4/05

2. Notwithstanding the special permit requirements in Section 8.12 (a)(10), in the case of a single room occupancy dwelling, dormitory, boarding house or lodging house, where more than 50% of the units are affordable to households earning no more than 60% of the median income, according to Section 11.08(c), DEFINITIONS, "Affordable Units", the number of parking spaces may be reduced to 50% of the requirements, by special permit, where it can be shown that the parking provided will be sufficient for both residents and employees.

f. ADMINISTRATION

1. The ARB shall be charged with the administration of this Section 11.08 and may promulgate rules and regulations to implement its provisions.
2. Occupancy permits may be issued for fair market rate units prior to the end of construction of the entire project provided that occupancy permits for Affordable Units are issued simultaneously on a pro-rata basis according to the formula set forth in section d, paragraph 1.
3. Sales prices, resale prices, initial rents and rent increases for Affordable Units shall be restricted to ensure long-term affordability to eligible households, to the extent legally possible.
4. The Affordable Units in Projects shall be subject to a marketing plan approved by the Director of Housing, consistent with Fair Housing laws and the Town's approved Fair Housing policy.
5. Condominium documentation shall provide the owners of the Affordable Units with voting rights sufficient to ensure an effective role in condominium decision-making.
6. All legal documentation shall be reviewed by and subject to approval of legal counsel to the Town.