



Town of Hamilton
Select Board
Monday, June 16, 2025

- Bill Olson,
Chair
- Bill
Wilson
- Rosemary
Kennedy
- Tom
Myers
- Benjamin
Galuza

7:00 p.m.

The Meeting Room
Hamilton-Wenham Library
14 Union St. Hamilton

AGENDA

This is an IN PERSON meeting. As courtesy for the public, zoom access will also be provided via the below link. However, the meeting will not be terminated in the event that technological issues disrupt the zoom broadcast.

Join Zoom at:

<https://us02web.zoom.us/j/89559997675?pwd=487sWFdC5SnabVqWCTaBICIBcMFIJD.1>

Meeting ID: 895 5999 7675

Passcode: 342198

One tap mobile

+19292056099,,89559997675#,,,,*342198# US (New York)
+13017158592,,89559997675#,,,,*342198# US (Washington DC)

Dial by your location

- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)
 - +1 305 224 1968 US
- +1 312 626 6799 US (Chicago)

7:00 p.m.	Call to Order – Roll Call Vote
ANNOUNCEMENTS & BOARD OPENINGS	
	Board and Committee openings: <ul style="list-style-type: none">• Affordable Housing Trust – 1 opening• Conservation Commission – 3 openings• Community Preservation Committee – 1 opening for member of Historic District Commission• Historic District Commission - 2 openings for 3 year terms, 2 openings for 2 year terms (one must be a resident of the Historic District and one must be a resident Realtor)• Human Rights Commission – 2 at-large openings• Hamilton Wenham Cultural Council – 1 opening

	<ul style="list-style-type: none"> • Public Comment – Will be taken for a maximum of twenty (20) minutes, no speaker will be allowed to speak for more than three (3) minutes
	<ul style="list-style-type: none"> • Board and Town Manager Reports
CONSENT AGENDA	
	<ul style="list-style-type: none"> • Approve Minutes of May 19, 2025 Select Board Meeting
AGENDA	
7:25 p.m.	<ul style="list-style-type: none"> • Select Board, as statutory cable licensing Issuing Authority, to discuss upcoming Verizon New England license expiration and need for Town to conduct cable license renewal proceedings and possible engagement of municipal cable counsel for assisting with Verizon license renewal process – with Attorney William August • Annual Reappointment of board and committee members for fiscal year 2026 – Discuss and Vote • Open Meeting Law Complaint filed against Select Board by Jeffrey Austin, dated May 6, 2025: acknowledge receipt of complaint, review and discuss Board's response, vote to take any remedial action, and authorize submission of response by Town Counsel – with Attorney Devan Bruan of KP Law • Discuss draft public comment policy and conduct for future Select Board meetings – with Attorney Devan Bruan of KP Law • Sign Warrant for Special Town Meeting on July 14, 2025 • New Business • Adjourn



Town of Hamilton
Select Board
Meeting Minutes of May 19, 2025

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Select Board members, a meeting of the Hamilton Select Board was posted for May 19, 2025 at 7:00pm at the Hamilton Wenham Library, 14 Union Street. *This meeting was recorded.*

The Select Board functions as the Chief Executive body of the Town. Its five members are elected to three-year terms with one or two seats up for election each year. The Board acts as the chief policy making body of the Town and directly supervises the activities of the Town Manager. The Select Board typically meets the first and third Monday evening at 7:00 p.m.

Select Board: Ben Galuza (2028); Thomas Myers (2028); Bill Wilson (2026); William Olson (2027); Rosemary Kennedy (2027).

Call to order: R.Kennedy called the meeting to order at 7:00pm. Present: R.Kennedy, W.Olson, Chair (arrived late), T.Myers, B.Galuza. Not present: B.Wilson. Also present: Joe Domelowicz, Town Manager, and others as noted.

The Chair announced Board and Committee openings as displayed on the agenda:

- Affordable Housing Trust – 1 opening
- Conservation Commission – 2 openings
- Community Preservation Committee – 1 opening for member of Historic District Commission
- Historic District Commission - 2 openings for 3-year terms, 2 openings for 2-year terms
- Human Rights Commission - 1 opening
- Hamilton Wenham Cultural Council – 1 opening
- **Public Comment – Three (3) minutes per person on items not already on the agenda:**
 - **Jeff Austin, Sharon Rd.,** stated he submitted a formal Open Meeting Law complaint on what he viewed as a clear violation by the Select Board. He (believed) the Chair cannot control the type of public comment in a meeting once the floor is open to the public. Because the Select Board voted to change the date of the Special Town Meeting, he also accused them of intentionally altering the voting demographics of the meeting. He opined their claim of receiving communications from families was blatantly hypocritical as they had “brushed off” the opinions of residents who oppose the school consolidation. He accused the Select Board of being an “echo chamber” pursuing outcomes over process, and of choosing the path of manipulation and selective morality.
 - **Scott Maddern, Old Cart Rd.,** opined when Select Board decided the Town Meeting date on Saturday, it was quite a arbitrary, very emotional discussion, and the decision was made late at night. The decision at that point was not based on fact, it was somewhat whimsical. Later, when the Board actually had data from the town manager, and other inputs of impacts across all the demographics, he believed they chose the date wisely. He commented that these are two very different opinions of the process.
 - **Phineas Sprague, Wenham,** pointed out the consolidated school is the preferred outcome of both towns, and has the recommendation of both Select Boards and Finance Committees. It would educate the elementary children from Wenham and Hamilton equally in the same structure. If the proposed school with its \$94 million cost to the towns is not passed, the alternative has a \$210 million price tag to fully renovate Cutler and Winthrop, and the towns can’t expect significant MSBA funding for about 7 to 10 years, at which time, depending on inflation, it could be \$300 to \$400 million for that same \$210 million project. That would mean a 25% or greater bump to property taxes. The “no” voters that want to keep neighborhood schools are imagining a future where the two towns will vote to fund huge renovation costs of Cutler and Winthrop. That would require a 2/3 vote from Wenham voters. He believes it was extremely unlikely Wenham would vote for a 25% tax hike, that doesn’t benefit Wenham students. He went on to state it would be in both towns’ interests to separate the financial responsibility of the elementary schools if this single school is not approved. The Regional School Agreement is currently open for negotiation. The Wenham Finance Committee has recommended this separation of financial responsibility to the Wenham Select Board, and they’re set to discuss this at tomorrow’s meeting. He pled with Hamilton voters not to vote for this bleak financial future but instead to support the current proposed consolidated school. Although P. Sprague is the Chair of the Wenham Finance Committee, he clarified he spoke as a resident.
 - **Kathleen Brill,** encouraged the town to put the 3A plan forward for a vote, so that the public in the town can choose to comply with 3A. The town is facing a deadline by which it is supposed to comply as set by the state and stands to lose significant funding, not just the things enumerated in the statute, but possibly all state funding to the town of Hamilton

could potentially be cut if the town does not vote to comply with 3A. She believes there has been a lot of delay, and it is time to put it forward for a vote. She supports the production of more housing in Hamilton, and doing the town's part to address the housing crisis in the state.

- **Erin Crawley, Appaloosa Lane**, echoed Kathleen's comments and noted she saw language in the State Senate budget that ties funding to 3A compliance, and also that other towns are moving forward, and she believes Hamilton will benefit from the new housing.
- **Tosh Blake, Sagamore St**, stated he disagreed with the possibility of the Board limiting public comment to the start of the meeting and not allowing it during agenda items. He believes it shuts out the public by having them make a blind comment at the beginning and not give their input to items. He stated he is definitely against 3A and believes the area is overbuilt, and that density should go to places that are already dense. He does not think it is a good idea to turn north of Boston into a conurbation.
- **Sandy Fisher, Greenbrook Lane**, agreed with T.Blake that people need to be heard in public comment when the item is discussed. She believes it is an unfunded mandate and the grants attached to it are minimal. She did not agree with the state telling the town where to build. She expressed her concern about the additional water usage and septic systems.

R.Kennedy turned the meeting over to Chair Olson, who arrived late.

Town Reports:

- **R.Kennedy** noted the construction on the wall at the Senior Center has started this week.

- **Open Warrant for June 26, 2025 Special Town Meeting – Vote**

Vote: The Board voted unanimously to open the June 26 Special Town Meeting warrant.

Chair Olson advocated for putting the zoning proposal in front of the town and allowing them to vote on it, rather than making the decision among the five of them. R.Kennedy noted there is ongoing litigation on 3A, and she is concerned about whether the town's proposal is ready.

- **Discuss Memo from Planning Board Chair Marnie Crouch**

M.Crouch stated she did not want to cast blame, because Utile and the Planning Board have worked hard, but Utile has not yet been able to provide a final product in response to the Planning Board's comments. Attorney Robin Stein had extensive comments and those are not resolved either. Utile is planning to submit the final draft by June 6, but the Planning Board does not have a meeting between then and when the warrant closes on June 10th. She said there is no time to educate the voters prior to June 26, and believed it is not comprehensible to the public as it is without design guidelines. She questioned whether it made sense to put it to voters while there is ongoing litigation and while the town is contemplating litigation itself. The Board questioned when the Planning Board would be ready and comfortable with what Utile is proposing. Chair Crouch felt the Board could be ready in the fall. She believed the Zoning Board of Appeals and the Building Inspector also needed to review the form-based code and provide their feedback. J.Domelowicz clarified the Winthrop School site has been excluded from any consideration of 3A zoning, and there is no plan for that site. Any potential change in the use of the Winthrop site would have to start with a process of town input and creation of a plan, which would then have to be approved by Town Meeting. The Board questioned different ways in which the process could possibly be expedited, and pressed for a possible timeline, but Chair Crouch said that she cannot predict the timeline.

J.Domelowicz summarized the Select Board has decided to pursue a dual pathway on 3A, in showing the state the town is pursuing compliance, but also objecting to some of the finer points of 3A Zoning. Chair Olson recommended the Planning Board continue with their public hearings on the proposed plan and get feedback from the public. J.Domelowicz noted other communities have had their funding pulled back, and the State has been clear that any discretionary grants could be subject to compliance with 3A. The Town Manager and Planning Director will speak with Utile the next day to ask them to agree to an earlier deadline.

Emil Dahlquist of the Planning Board stated the form-based code design is a protective measure for the town, and he believed it was tainted because of the 3A discussion, when in fact, it is intended to be protective of the how the downtown continues to look and feel. He believed it will be defeated because of 3A. Chair Olson pointed out this is not doomsday, and many towns have already passed the 3A legislation. There was further discussion regarding the possible iterations of what could happen and in what sequence, related to possible actions by the State and actions by the town. They discussed their opinions on timelines, with some advocating for postponing until fall, and others believing it would be irresponsible to wait on a vote, and that everyone should push forward toward compliance.

J.Domelowicz and M.Connors will attempt to set up a meeting with the State in order to discuss the town's predicament.

- **Close Warrant for June 26, 2025 Special Town Meeting – Vote**

This agenda item was not acknowledged.

- **Select Board Liaison Roles for 2025-26 – Discuss & Vote**

J.Domelowicz outlined the process for assigning liaison roles. The Board members who were present expressed their preferences for liaison roles. Chair Olson will complete the assignments and it will come back for a vote.

- **Recommendations for June 9, 2025 STM articles – Discuss & Vote**

Vote: *The Board voted to recommend favorable action for Article 20256-6.1 for the Regional School District Consolidated Elementary School project. (3 in favor, R.Kennedy opposed)*

Vote: *The Board voted to recommend favorable action for Article 20256-6.2 for the extension of the Cutler School lease. (3 in favor, R.Kennedy abstained)*

- **Sign June 9, 2025 Warrant**

- **Acknowledge citizen's complaint against Chair Olson – Discuss & Vote**

The Town has 14 days to respond to an Open Meeting Law complaint, but because of the planning for two special town meetings, Town Counsel has already sought and received an extension to the middle of June. At an upcoming meeting, the Board will discuss what public comment will look like going forward, and will discuss a response to the State on the complaint.

- **Review latest offer for buy-out of cell tower lease – Discuss & Vote**

J.Domelowicz gave a brief update, but the topic was deferred to the next meeting.

- **Review next steps for approval of second cell tower at 265 Bay Road – Discuss & Vote**

J.Domelowicz gave an update on moving towards the possibility of a second cell tower, and noted there is finally interest from some companies to make this happen.

New Business

- At the June 16 meeting, the Board will discuss what public comment will look like under this Board for the foreseeable future.
- **Vote:** *The Board voted unanimously to approve the Town Manger's issuance of a citation for Quentin Moore Apel for achieving the rank of Eagle court of honor.*

Adjournment Vote: *The Select Board voted unanimously to adjourn the meeting at approximately 9:00PM.*

Meeting Packet Enclosures:

- Proposed articles for June 26 Special Town Meeting
- Proposal from Planning Board to postpone Special Town Meeting
- Select Board Liaison Roles
- STM Warrant
- Open Meeting Law Complaint from J. Austin
- Proposed Amendments to Existing Code
- Letter from Representative K. Kassner

Respectfully submitted by D. Pierotti, Recording Secretary, 5/26/25.

The minutes were prepared from video.

Respectfully submitted as approved at _____ meeting.

Rosemary Kennedy, Clerk

**TOWN OF HAMILTON AGREEMENT
FOR CABLE TELEVISION LICENSE RENEWAL LEGAL SERVICES**

Agreement entered into this ____ day of June, 2025, between the Town of Hamilton, Massachusetts (the “Town” or “Client”), and Attorney William August of Epstein & August, LLP, Attorneys At Law, 875 Massachusetts Avenue, Suite 31, Cambridge, Massachusetts 02139 (“Attorney”), by which Attorney agrees to perform certain cable television license renewal legal services subject to the following terms and conditions:

(1) Scope of Legal Services

The Client and Attorney have, following discussion of those matters underlying the Client’s retention of Attorney, determined that the services to be performed by Attorney are generally as follows:

(a) Attorney shall provide legal counsel to the Town of Hamilton in connection with the current Verizon New England (“Licensee”) cable television license renewal process.

(b) The Attorney shall review and analyze the various materials and proposals concerning Town of Hamilton cable television license renewal proceedings and needs subject to the Select Board, as statutory cable license Issuing Authority, having ultimate control over licensing decisions and related proceedings;

(c) Attorney shall offer advice to the Client on the various aspects of the cable television renewal process, including, but not limited to, legal, regulatory and procedural issues pertaining to cable license renewal ascertainment of needs, negotiations and license drafting;

(d) Attorney shall draft such documents and letters as necessary or useful to the cable television license renewal process;

(e) At the appropriate time, Attorney shall assist with the preparation for and conduct of a public hearing(s) to meet regulatory requirements to ascertain local cable needs; shall draft or mark-up, as applicable, findings of need (Ascertainment Report and Findings) if and as needed; and shall draft and prepare a Hamilton Verizon cable television Renewal License for the Client, or work off an agreed upon Verizon draft license, at the request of the Client subject to Client retaining discretion to resolve renewal issues informally with Verizon;

(f) Attorney shall meet with Verizon officials when necessary or useful and with the Town’s designated representatives if and as directed by the Town;

(g) Attorney shall attend and participate in meetings, negotiations sessions and/or public hearings that the Client holds in connection with the cable television renewal process, at the request of the Client, which meetings may be via virtual remote access platforms at the request of either party;

(h) Attorney shall perform such other tasks related to the cable television renewal process as necessary and/or at the request of the Client.

(i) Scope limitation: This retainer agreement is for the Verizon license renewal process and non-renewal matters not included within the scope of this Agreement, unless agreed to by both Parties, include, but are not limited to: state or federal cable rate regulation proceedings, if any; any litigation work other than providing consultation to litigation counsel, any post-license execution disposition and/or appropriation of negotiated funds, and it shall be the responsibility of the Issuing Authority or the Town as applicable to determine procedures for appropriation and expenditure of funds and procurement. The proposed renewal process will be under the Cable Act informal renewal sections and not entail formal renewal process RFP issuance procedures unless specifically required by the Issuing Authority after consultation with Attorney.

Change of Law The Attorneys disclose that the area of cable television licensing law and regulation has been and may continue to be subject to significant and frequent changes in law and changes in interpretation of law, including but not limited to legal changes affecting the scope of permissible cable regulation and negotiation, the enforcement of license requirements and the like and pending efforts to deregulate or preempt diverse areas of cable regulation and licensing are ongoing at present.

(2) Compensation

The Client shall pay Attorney for services actually rendered on the Client's behalf at the rate of Two Hundred and Sixty Dollars (\$260.00) per hour unless otherwise authorized by the Client. This Agreement may be terminated by the Issuing Authority in its discretion at any time. It is understood that hourly time charges shall include conferences, telephone conferences, legal research, review of file materials and other documents sent or received, preparation and drafting of contracts, agreements, memoranda, opinions, correspondence and travel time to meetings. Attorney shall invoice Town on a monthly basis and Town shall make diligent efforts to make payment with one month of receipt of invoice.

Expenses

Attorney is hereby authorized by the Client to incur such reasonable costs and expenses and make out-of-pocket disbursements not to exceed one hundred dollars (\$100.00) in any 30-day period, unless otherwise agreed by the Parties, in connection with his performance of services hereunder. As a matter of convenience to the Client, copying costs and expenses shall in the first instance be paid by Attorney promptly upon their incurrence or his receipt of applicable invoices or bills. Thereafter, such costs and expenses shall be billed to the Client.

(3) Termination

The Client and Attorney agree that Client may terminate this Agreement at any time by written notice to the Attorney so long as such termination is not prohibited by law. If this Agreement is terminated by the Client prior to the completion of services, Attorney shall be entitled only to payment for all services properly rendered in accordance with the terms of this Agreement through the date of termination. Attorney may terminate this Agreement only if and as required by legal, ethical or professional requirements and standards or prolonged nonpayment and Attorney shall be entitled to all fees for services rendered up to the date of termination and reasonable costs and expenses incurred in connection therewith.

Town of Hamilton

By Town Administrator as authorized by Issuing Authority:

Title: _____

Date: ____, 2025

Epstein & August, LLP

By William August, Esq., Partner

Date: June ____, 2025

Reappointments – Expiring Terms June 30th

Giselle Perez, Board of Health – YES

Jean Ramsey, Board of Health - YES

Jennifer Drummond, HWCC - YES

Lindsey Peabody, HWCC - NO

Fay Ciaramitaro, HHRC - YES

Don Perkins, HEIC – YES – 2 years

Emmett Holt, HEIC - YES

Jack Simons, HEIC - YES

Scott Maddern, HDC - YES

Brian Stein (associate), HDC - YES

John McGrath, FinCom - YES

Harry Phillip, FinCom - NO

Laura Studley, COA - YES

Virginia Cookson, ConCom - YES

Jay Butler, CPC - YES

Heather Ford, CapCom – YES (3 years)

Steve Loeper, CapCom - YES

Mike Twomey, CapCom - YES

Suzanne Soffa, AHT – YES



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Jeff Last Name: Austin

Address: 50 Sharon Road

City: Hamilton State: MA Zip Code: 01982

Phone Number: 6174017115 Ext.

Email: jeffrey.austin@comcast.net

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Hamilton Select Board

Specific person(s), if any, you allege committed the violation: William Olsen

Date of alleged violation: 5/5/25

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On 05/05/25, during a publicly recorded meeting of the Select Board, the Chairperson prohibited members of the public from making comments, allowing only questions, despite the presence of School Committee members discussing a major public school consolidation proposal. Additionally, certain Select Board members were improperly denied their right to speak on the matter during a relevant portion of the meeting. These actions appear to violate the spirit and letter of the Open Meeting Law and the ruling in Barron v. Kolenda, which bars viewpoint or content-based restrictions during public comment periods. A copy of the recorded meeting can be found at the following public link:

Hamilton Select Board Meeting 05/05/25 - Most specifically the Chair's behavior.
Govt. Accesshwcam.org

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

The Select Board Chair was just elected 2 weeks ago.
Preferably he steps down and a new chair is elected.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

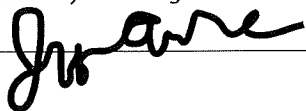
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____



Date: 05/06/25

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

June X, 2025

Thomas McEnaney
tmcenaney@k-plaw.com

BY ELECTRONIC MAIL ONLY – (openmeeting@state.ma.us)

Carrie Benedon, Esq.
Director, Division of Open Government
Office of Attorney General
One Ashburton Place
Boston, MA 02108

Re: Town of Hamilton – Select Board
Open Meeting Law Complaint from Jeff Austin, dated May 6, 2025

Dear Attorney Benedon:

Please be advised that this office serves as Town Counsel to the Town of Hamilton, Massachusetts (“Town”). The Town’s Select Board (“Board”) is in receipt of an Open Meeting Law Complaint filed by Mr. Jeff Austin, dated May 6, 2025.¹ A copy of the Complaint is attached hereto as Exhibit 1.

Following receipt of the Complaint, the Board requested a brief extension of the deadline to respond, which was granted by the Division. Thereafter, the Board met on June 16 at a properly posted meeting noticed for such purposes to discuss the Complaint and consider its response. The Board has carefully reviewed the allegations contained in the Complaint, and following such discussion, has authorized this office to submit the following response, in accordance with G.L. c.30A, §23 and 940 CMR 29.05(5). This response is based on information provided to this office by the Board.

DISCUSSION

In the Complaint, Mr. Austin alleges that the Board, and specifically its Chair, violated the Open Meeting Law at its May 5 meeting because the Chair “prohibited members of the public from making comments, allowing only questions, despite the presence of School Committee members discussing a major public school consolidation proposal.” Exhibit 1 at 2. He also alleges that Select Board members “were improperly denied their right to speak on the matter.” These actions, the complainant contends, run afoul of “the ruling in *Barron v. Kolenda*, which bars viewpoint or content-based restrictions during public comment periods.” *Id.* As a remedy therefor, the complainant requests that the Chair step down and a new Chair be elected. *Id.* As set forth below, the allegations raised do not invoke the jurisdiction of the Open Meeting Law, and therefore, the Board declines to take the remedial action requested.

¹ All dates herein refer to the year 2025 unless otherwise noted.

Carrie Benedon, Esq.
Director, Division of Open Government
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The Division of Open Government's review of complaints concerns compliance with the Open Meeting Law, G.L. c.30A, §§18-25, and it "does not review allegations concerning restrictions on public comment" under *Barron v. Kolenda*, 491 Mass. 408 (2023). See OML Declination dated April 19, 2024 (Natick School Committee) at 1, n.3. As the Division has explained, "[t]he Open Meeting Law does not require that a public body allow public participation, but rather gives the chair of the public body discretion to decide whether to permit public comment during a meeting." *Id.*, citing G.L. c.30A §20(g)(emphasis added). "If public participation will be permitted, the chair may determine the method for receiving public comment, who may speak or otherwise participate during a meeting, and may set limitations on participation." *Id.*, citing OML 2020-114; 2017-189.

In this case, after allowing public comment on this particular topic at several other meetings, the Chair noted that, at this particular meeting, members of the public could ask questions to be answered by the School Committee representative, but that there would be no public comment period. Because the Chair may determine the method for receiving public comment, who may speak or otherwise participate in a meeting, and any limitations on participation under the Open Meeting Law, even assuming *arguendo* that the allegations raised in the Complaint were true, which the Board denies, there has been no violation of the Open Meeting Law as the law "does not require that a public body allow public participation." See, e.g., OML Declination dated April 19, 2024 (Natick School Committee); OML Declination dated August 12, 2024 (Lunenburg Cemetery Commission); OML 2024-127 (Lowell School Committee).

As such, the Board considers this matter resolved. That said, the Board thanks the complainant for the concerns that he has raised and for creating an opportunity to discuss, as a full Board, ways to ensure full compliance with all applicable laws, including reaffirming its commitment to transparency under the Open Meeting Law.

CONCLUSION

Based on the foregoing, the Board submits that this matter does not allege an actionable violation of the Open Meeting Law and is outside the jurisdiction of the Division of Open Government.



Carrie Benedon, Esq.
Director, Division of Open Government
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If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

Thomas McEnaney

Enc.

cc: Select Board

Mr. Jeff Austin (*by electronic mail only* – jeffrey.austin@comcast.net)

978308/HAML/0001

Hamilton Select Board
Policy Governing Public Comment at Public Meetings

I. PURPOSE

The Select Board ("Board") welcomes and encourages its residents to attend its public meetings, excepting executive session meetings that are held in accordance with General Laws Chapter 30A, Section 21, so that residents may become better acquainted with and provide feedback on the policies, operations, services, programs, applications, and/or general Town matters within the Board's jurisdiction.

To that end, the Board may open up for residents a limited public comment period on any or none of its open session meeting agendas. If the Board opens up such a period, the period shall be and is intended to be a limited public forum for the purpose of providing residents with an opportunity to comment on matters within the public body's jurisdiction and authority. All such comments are subject to reasonable time, place, and manner regulations as set forth in the following policy. This policy applies to public comment only. It does not apply to petitioners, applicants, or similar persons/entities who are required to appear before the Board in accordance with a statute, regulation, bylaw, or otherwise.

This policy is adopted to facilitate an efficient public comment period at meetings of the Board and to ensure that the Board has the ability to conduct its business in an orderly fashion. To allow speakers a fair opportunity to address the Board, and to ensure the Board may accomplish its stated business on matters within its jurisdiction in an efficient manner, the following rules and procedures are adopted, consistent with the First Amendment to the United States Constitution, Article 16 to the Massachusetts Declaration of Rights, and the Massachusetts Open Meeting Law.

II. AUTHORITY OF CHAIR

Pursuant to General Laws Chapter 30A, Section 20(g), no person shall address a meeting of a public body without permission of the Chair, and all persons shall, at the request of the Chair without regard to the content of their speech but to promote an orderly meeting, be silent. Any person wishing to speak at an open meeting, during a limited public comment period, must first be recognized by the Chair, and all questions raised and comments made by a duly-recognized speaker must be directed to the Chair as opposed to individuals or other public body members, to ensure that a meeting is conducted in an orderly and peaceable manner and that comments can be made in an open and welcoming atmosphere without regard to the content thereof.

Neither the Chair of the meeting, nor any public body members, may interrupt speakers who have been recognized to speak except that the Chair may cut off a speaker whose time has run out, as detailed in Section III. The Chair also may terminate a speaker's comments when it falls within a category of unprotected speech because it constitutes a true threat, an incitement toward imminent lawless conduct, sexually explicit and obscene comments made to appeal to prurient interests with no literary, scientific, or artistic value, or comments that have already been found by a court of law to constitute defamation.

Because of constitutional principles governing freedom of speech, neither the Chair of the meeting, nor any public body members, have the authority to prevent comments that may be deemed highly offensive

Commented [DB1]: In general, there is no requirement to provide public comment at all. The Chair can decline to open it up. Once it is opened up, however, the Board may not impose any content-based restrictions. It may only impose certain time, place, and manner restrictions, such as "designating when public comment shall be allowed in the governmental meeting, the time limits for each person speaking, and rules preventing speakers from disrupting others, and removing those speakers if they do." Barron v. Kolenda, 491 Mass. 408, 410 (2023).

Commented [DB2]: This policy currently applies only to the Select Board.

Note that some municipalities adopt a policy applicable to all public bodies in Town, due to the high level of risk posed by civil rights claims where a prevailing party can recover attorney's fees for public bodies who are violating free speech principles in public comment policies.

Although the Board may require all boards it appoints to utilize such a uniform policy, it may be difficult to enforce use of the policy by elected boards and committees. Importantly, in our opinion, consistent use of the policy by all boards and committees will better insulate the Town from potential civil rights claims, so the Board may wish to adopt a more uniform application to "all public bodies" in Town.

Commented [DB3]: Notably, courts in other jurisdictions have concluded that conducting an efficient meeting is a "significant governmental interest" sufficient to regulate public comment. See, e.g., Grayned v. City of Rockford, 408 U.S. 104, 119 (1972) (city has compelling interest in undisrupted meeting sessions); Jones v. Heyman, 888 F.2d 1328, 1333 (11th Cir. 1989) (significant governmental interest in controlling agenda and preventing disruption of public meetings); Wright v. Anthony, 733 F.2d 575, 577 (8th Cir. 1984) (significant governmental interest in conserving time and allowing others opportunity to speak during public hearing). See also Spaulding v. Town of Natick School Committee, Sup. Ct. C.A. No. 2018-01115 (Nov. 21, 2018) (public body has "compelling interest" in "conducting the [public body's] meeting in an orderly and efficient fashion").

Therefore, this statement of purpose attempts to make clear that any regulation of public comment is to effectuate these interests.

Commented [DB4]: Speech may be curtailed for violations of content-neutral reasonable time, place and manner restrictions, such as when a speaker has not been recognized, interrupts the recognized speaker, disrupts the meeting by talking to others, or in similar situations. See, e.g., White, 900 F.2d at 1425 (moderator "certainly may stop [the speaker] if his speech becomes irrelevant" or if they are "speaking too long"); Eichenlaub v. Twp. of Indiana, 385 F.3d 274, 281 (3d Cir. 2004) (restricting public comments that are "repetitive and truculent, and [where speaker] repeatedly interrupted the chairman of the meeting ... is the sort of time, place, and manner regulation that passes muster under the most stringent scrutiny").

or upsetting, and therefore, a content warning or disclaimer may be made by the Chair, at their discretion, at the start of the public comment period.

III. PUBLIC COMMENT GUIDELINES

The limited public comment period provides an opportunity to address matters of public concern within the public body's jurisdiction to provide feedback or request future action or response. Public comment segments are listening sessions and the public body is there to listen. It will not engage in any attempt to initiate discussion, debate, or dialogue between and among the public body and an individual on any matter. If they are not recognized by the Chair or time does not permit, individuals always have the alternative forum of submitting a written statement to the public body.

1. All speakers are encouraged to present their remarks in a respectful and civil manner but cannot be required to do so.
2. Each speaker will be asked to sign up on a sheet to speak to promote order and efficiency and will be recognized by the chair in the order in which they are signed up.
3. Public comments will be taken first from individuals attending the public body's meeting and not from those accessing the meeting online or remotely, unless any speaker requires a special accommodation to speak from another location and notifies the public body by telephone or email at least 48-hours in advance of the meeting if they wish to request an extension of time or other accommodation for a disability.
4. Once recognized by the Chair, speakers will begin their remarks by stating their name for the record. Street addresses are not required but may be provided at the speaker's discretion, particularly if they are relevant to the public body's consideration and the weight to be accorded a particular matter.
5. Assuming that five (5) or fewer speakers sign up for public comment, each speaker will be limited to three (3) minutes to present their remarks. If more than five (5) speakers sign up for public comment, then each speaker will be limited to two (2) minutes to present their remarks. The total public comment period shall not exceed fifteen (15) minutes.
6. At the discretion of the Chair, in addition to and/or in lieu of a general public comment period at a designated time of the meeting, the Board may open up any particular agenda item for individual public comment. However, the Board is not required to open up individual agenda items to additional public comment, and the decision to do so on one or more occasions does not mean it will be done on another occasion. Therefore, members of the public are reminded that they can always submit a written comment letter on a particular matter for the Board's consideration.
7. Large groups addressing the same topic are encouraged to consolidate their remarks and/or designate a spokesperson to comment on their behalf.
8. Speakers may not assign their time to another speaker, and in general, extensions of time will not be permitted. If a speaker's time is extended at the discretion of the Chair, all other speakers' comments in that public comment period must be extended accordingly. An extension of the

Commented [DB5]: See, e.g., *Madison, Joint Sch. Dist. No. 8 v. Wisconsin Employment Relations Comm'n*, 429 U.S. 167, 175 n.8 (1976) ("Plainly, public bodies may confine their meetings to specified subject matter ..."); *Spaulding, supra* (complaints made during public speak "must fall within the ... scope [of the public body's jurisdiction]"). Indeed, whenever a public body "is prevented from accomplishing its business in a reasonably efficient manner," the meeting has been disrupted and the body may reasonably limit its speakers to proceed with the actual business before it. See *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).

Commented [DB6]: This section provides that members of the public body will not respond to matters raised during public comment. Avoiding debate between the speaker and the board reduces the likelihood that someone will be cut short or feel as though they should stop talking based upon the content of their speech. Importantly, avoiding debate between speakers and the public body allows the board to address only the matters on its agenda and not weigh into topics that are not posted in accordance with the Open Meeting Law.

Commented [DB7]: The *Barron* court observed that "[a]lthough civility can and should be encouraged in political discourse, it cannot be required." *Id.* (emphasis added).

Commented [DB8]: Please revise accordingly for time per speaker and time for total public comment period, as desired by the Board.

Commented [DB9]: Be reminded that this is not required and, in our experience, can lead to issues outside of the general public comment period. Members of the public still can comment on particular agenda items during the general public comment period. Therefore, the Board may wish to consider, as a matter of policy, whether it wants to consider including a public comment period on specific agenda items or just include the general public comment overview at the beginning of a meeting.

Be reminded also that no public comment period is ever required. Once it is allowed, however, there can be no restriction on the content of the speaker's remarks. Only reasonable time, place, and manner restrictions are allowed.

total public comment period on one occasion does not mean that it will be extended at another meeting.

Speech may be curtailed for violations of content-neutral reasonable time, place and manner restrictions, such as when a speaker has not been recognized, interrupts the recognized speaker, disrupts the meeting by talking to others, or in similar situations. See, e.g., White, 900 F.2d at 1425 (moderator “certainly may stop [the speaker] if his speech becomes irrelevant” or if they are “speaking too long”); Eichenlaub v. Twp. of Indiana, 385 F.3d 274, 281 (3d Cir. 2004) (restricting public comments that are “repetitive and truculent, and [where speaker] repeatedly interrupted the chairman of the meeting ... is the sort of time, place, and manner regulation that passes muster under the most stringent scrutiny”).

Based upon these principles, the chair of a public body should not limit or interrupt a speaker except for the following:

- Speaking without being recognized;
- Continuing to speak after the chair has curtailed additional verbal comment;
- Interrupting a recognized speaker;
- Speaking about matters not within the jurisdiction of the public body;
- Engaging in conversations while another person is speaking;
- Making true threats of violence directed toward a particular individual; and
- Making comments inciting imminent lawlessness.

The Board may wish to include such express examples in the policy itself.



WARRANT

For

Special Town Meeting

July 14~~ne~~th 26, 2025

6:30 p.m.

Hamilton-Wenham Regional High School

Auditorium

Commented [TM1]: Please confirm.

Commented [TM2]: Please confirm.

Please recycle this warrant after the Town Meeting.

Town By-Laws

CHAPTER II

RULES AND PROCEDURE OF TOWN MEETINGS

SECTION 1. All articles in the warrant shall be taken up in the order of their arrangement, unless otherwise decided by a two-thirds vote, except that unanimous consent shall be required for inclusion of an Article in a "Consent Motion" group of Articles that will be taken up by the meeting for voting on the group.

SECTION 2. In case of motions to amend, or to fill out blanks, the one expressing the largest sum or the longest time shall be put first, and an affirmative vote thereon shall be a negative vote on any smaller sum or shorter time.

SECTION 3. The report of a committee shall be deemed properly before a meeting if a request for its acceptance is included in an article of the warrant and a copy is published in the Special Report or is filed with the Town Clerk fifteen days prior to the meeting. A vote to accept a final report shall discharge the committee but shall not be equivalent to a vote to carry out its recommendations. A vote on recommendations included in a committee report shall only be in order under an article to that effect in the warrant. A vote to accept a report of progress shall continue the committee under its original authority unless otherwise specified.

SECTION 4. If an article of the Warrant has once been acted upon and disposed of, it shall not be again considered at the meeting except by a two-thirds vote.

SECTION 5. No money shall be appropriated from the Stabilization Fund except by a 2/3 vote at a Town Meeting.

SECTION 6. Only registered voters of the Town shall be admitted and entitled to vote at any Annual or Special meeting provided that upon prior request the Moderator may admit to the meeting persons who are not registered voters and in his discretion may permit them to speak on a subject. Any person so permitted to speak at a meeting shall announce his full name and address to the meeting.

SECTION 7. Motions at Town Meeting shall be made orally, but the Moderator may require any motion also to be submitted in writing. Unless otherwise directed thereby the Moderator shall appoint all committees created by the vote of the Town.

SECTION 8. The conduct of all Town Meetings not prescribed by law or by the foregoing rules shall be determined by the rules of practice contained in the most current edition of Town Meeting Time, A Handbook of Parliamentary Law.

SECTION 9. On matters requiring a two-thirds vote, either by statute or these By-Laws, a count need not be taken and the vote need not be recorded unless the vote declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15.

TABLE OF CONTENTS

Commented [TM3]: This will need to be updated.

WARRANT

ARTICLE	DESCRIPTION	PAGE No.
2025/6 1	MBTA (G.L. c.40A, §3A) Zoning	
2025/6 2	Zoning Bylaw Amendment - _____	



ESSEX, SS

TO THE CONSTABLE OF THE TOWN OF HAMILTON:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Hamilton qualified to vote in election and town affairs, to meet at the Hamilton-Wenham Regional High School Auditorium, 775 Bay Road in said town, on Thursday, the twenty-sixth day of June, in the year Two Thousand Twenty-five (June 26, 2025) at six thirty o'clock in the evening (6:30 p.m.), then and there to act on the following articles.

ARTICLE 2025/6 1

*MBTA (G.L. c. 40A,
§3A) Zoning*

To see if the Town will vote to amend the Town of Hamilton Zoning Bylaw and Zoning Map to: (1) identify and create three new zoning districts, being the Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential districts in the Town Center and to specify the uses allowed and prohibited therein, and the intent and purposes of, those districts; (2) re-zone certain land from the Business (B) District or the Residence (R-1a) District to one of those three new districts; (3) add or amend comprehensive provisions, including but not limited to, treatment of nonconformities and accessory uses and structures, and inclusionary housing, parking, signs, design, site, dimensional, use and administrative/permitting/site plan requirements applicable to those three new districts; (4) create a new 3A Multi-family Overlay District in which multi-family housing is allowed as of right, and add comprehensive provisions regulating that use in theat new overlay district and amend the application of Section 9.1 Groundwater Protection Overlay District to that new overlay district; (5) add or amend definitions; (6) amend Section 10.6 site plan review and (76) make related or necessary changes to other sections-provision of the Zoning Bylaw, all as set forth in Appendix A attached hereto; and to authorize the Town Clerk to undertake any necessary and related renumbering of the Zoning By-law, or take any action thereon or relative thereto.

A majority vote is required to approve this article.

Brief Summary: This article seeks to _____.

Fiscal Year 2026 Tax Rate Impact: None.

~~The Select Board (4-1) recommends favorable action. The Finance and Advisory Committee (3-1) recommends favorable action. The Planning Board (—) recommends favorable action. Recommendations from the Select Board, Finance Advisory Committee, and Planning Board, if~~

Commented [RS4]: To be decided.

Commented [RS5]: To be decided.

Commented [TM6]: This will need to be updated.

Commented [MC7R6]:

	<u>provided, and associated vote tallies.</u>
<p>ARTICLE 2025/6 2</p> <p><i>Zoning Bylaw Amendment -</i></p>	<p>To see if the Town will vote to amend the Town of Hamilton Zoning Bylaw and Zoning Map to: (1) identify and create two new zoning districts <u>in the Town Center</u>, being the Depot Square and Bay Road Civic districts and to specify the uses allowed and prohibited therein, and intent and purposes of, those districts; (2) re-zone certain land from the Business (B) District- <u>or the Residence (R-1a) District to one of those two new districts the Depot Square or and Bay Road Civic Districts</u>; (3) eliminate the Business District and Willow Street Overlay district and delete references to the Business District and Willow Street Overlay District on the Zoning Map and throughout the Zoning Bylaw; (4) <u>re-zone certain land from the Business (B) District to the Residence (R-1a) District</u>; (5) add or amend comprehensive provisions, including but not limited to, treatment of nonconformities <u>and accessory uses and structures</u>, and parking, <u>sign</u>, design, site, administrative/permitting/<u>site plan review</u>, use and dimensional requirements applicable to <u>these two new Depot Square and Bay Road Civic districts</u>; (6) specify additional provisions applicable to, and uses that are allowed in, the new Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential districts and uses prohibited in the <u>Residence (R-1a and R-1b) and Residential Agricultural (RA)-1A, R-1B and RA Districts</u>; (7) <u>add and or amend definitions</u>; (8) <u>amend section 10.6 site plan review</u> and (9) <u>make related or necessary changes to other sections of the Zoning Bylaw, all as set forth in Appendix B attached hereto; and to authorize the Town Clerk to undertake any necessary and related renumbering of the Zoning Bylaw, or take any action thereon or relative thereto.</u></p> <p><i>A 2/3 vote is required to approve this article.</i></p> <p><i>Brief Summary: This article seeks to _____.</i></p> <p><i>Fiscal Year 2026 Tax Rate Impact: None.</i></p> <p><u>The Select Board (5-0) recommends favorable action. The Finance and Advisory Committee (4-0) recommends favorable action. The Planning Board (—) recommends favorable action. Recommendations from the Select Board, Finance Advisory Committee, and Planning Board, if provided, and associated vote tallies.</u></p>

Commented [RS8]: Mark- why did you change this here but not make the same change in the prior article?

Commented [RS9]: To be decided.

Commented [TM10]: This will need to be updated.

ADJOURNMENT

Given under our hands this _____ day of
_____, 2025.

HAMILTON SELECT BOARD

William A. Olson, Chair

William W. Wilson

Rosemary I. Kennedy

Thomas B. Myers

Benjamin Galuza *Hamilton, Massachusetts*

I have this day served this warrant as directed by Chapter 1, Section 1b of the Town By-laws.

Constable, Town of Hamilton

Date

979585/HAML/0001

*BULK RATE
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HAMILTON, MA
01936*

POSTAL PATRON

Visit our website at www.hamiltonma.gov

Please join us

Thursday, June 26, 2025

SPECIAL TOWN MEETING

*Hamilton-Wenham Regional High School
Auditorium*

6:30 p.m.

DEMOCRACY IS NOT A SPECTATOR SPORT

Please bring this warrant with you to the Town Meeting. Thank you.

Commented [TM11]: Please confirm.

Commented [MC12R11]: Yes

Commented [TM13]: Please confirm.

Commented [MC14R13]: Yes

APPENDIX A
ZONING BYLAW AND ZONING MAP AMENDMENTS

Unless specifically indicated below additions are underlined, deletions are ~~struck through~~, and explanatory and/or clarifying information for the reader that is not part of the proposed amendment itself and will not be included in the Zoning Bylaw is shown *italicized* and within borders.

HAMILTON ZONING BY-LAW TABLE OF CONTENTS

Insert the following to the Table of Contents under Section 9.0 Special District Regulations after 9.6:

9.7 3A MULTI-FAMILY OVERLAY DISTRICT (3A-MFOD)

9.7.1 Purpose

9.7.2 Applicability

9.7.3 Permitted Uses

9.7.4 Dimensional Standards

9.7.5 Severability

9.8 TOWN CENTER DISTRICTS

9.8.1 Purpose and Intent

9.8.2 Interpretation

9.8.3 Town Center Sub-Districts

9.8.4 Dimensional Standards

9.8.5 Use Provisions

9.8.6 Site Standards

9.8.7 Administration

2.1 CLASSES OF DISTRICTS. The Town of Hamilton is hereby divided into the following districts:

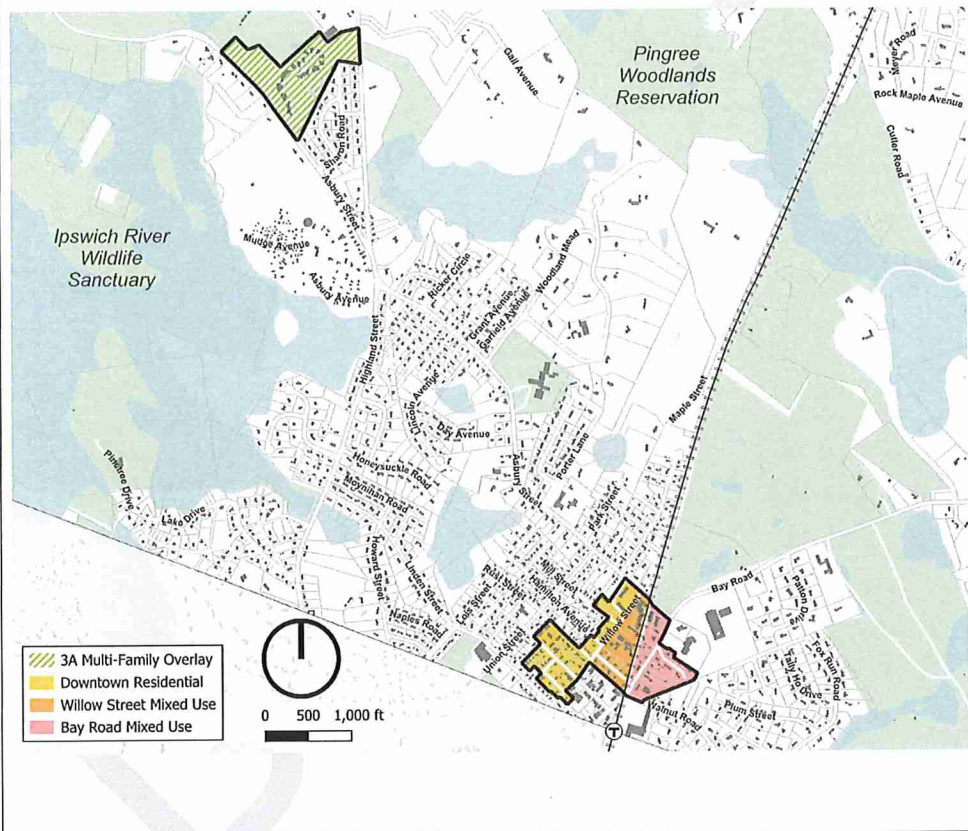
Residence District	R-1A
Residence District	R-1B
Residence-Agricultural District	RA
Business District	B
<u>Bay Road Mixed-Use</u>	<u>TC-BRMU</u>
<u>Willow Street Mixed-Use</u>	<u>TC-WSMU</u>
<u>Downtown Residential</u>	<u>TC-DR</u>

2.2 ZONING MAP. The Zoning Map dated December 28, 1964, filed with the Town Clerk, as amended by the Zoning Map - Conservancy District, dated February 1, 1971, and further amended May

7, 1974, May 14, 1979, May 13, 1985, November 14, 1999, ~~and May 5, 2009,~~ and June 26, 2025
 ("Zoning Map") is hereby made a part of this By-law.

Map depicting new proposed zoning and zoning overlay districts under Article I- Changes will be incorporated into the Zoning Map. Land with the Business District and Residence District (R-1A) is being re-zoned.

Commented [RS1]: I recommend including the relevant portion of the existing map so people can see what is changing.



2.3 OVERLAY DISTRICTS. The following Overlay Districts are also established, as set forth in Section 9.0, herein.

Groundwater Protection Overlay District
 Flood Plain Overlay District

GPOD
 FPOD

Estate Overlay District	EOD
Willow Street Overlay District	WSOD
Commercial Overlay District	COD
3A Multi-Family Overlay District	3A-MFOD

2.5 SPLIT LOTS.

2.5.2 By District Boundary. Where a district boundary line between a residential and a business district divides any Lot existing at the time such line is adopted, the regulations for the less restricted portions of such lots shall extend no more than thirty (30) feet into the more restricted portion, provided the lot has lot frontage on a public way in the less restricted district or sub-district. For purposes of this section the Bay Road Mixed Use, Willow Street Mixed-Use and Downtown Residential Districts are residential districts.

Commented [RS2]: Please confirm.

3.1 PRINCIPAL USES.

TABLE OF USE REGULATIONS

Amend the Table of Use Regulations to add columns for the new Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential districts. Add a new use in Section A. Residential after 7 being Multi-Family Dwelling which is allowed by right only in the new Bay Road Mixed-Use, Willow Street Mixed-Use, Downtown Residential districts. Amend the use table to indicate that all other uses are prohibited in the new Bay Road Mixed-Use, Willow Street Mixed-Use, Downtown Residential districts. The table as to multi-family use is shown as follows:

A. Residential	R-1a	R-1b	RA	B	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential
8. Multi-Family Dwelling	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

3.2 ACCESSORY USES.

3.2.2 Accessory Uses and Structures in the Residence Districts and Downtown Residential sub-district of the Town Center District. The following provisions shall apply to Accessory Uses and Structures in the Residence and Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential Districts:

Commented [RS3]: I have left this as Residence and deleted the change to the specific existing districts as that, in my opinion, likely needs a 2/3 vote. If you want to do that we can add it to the other article.

Commented [RS4]: This needs to be clarified. The title references just the Downtown District and the Body references the 3 districts? The next section references all but the downtown district?

3.2.3 Accessory Uses in the Business, Willow Street Mixed-Use and Bay Road Mixed-Use sub-districts of the Town Center District. In the Business, Willow Street Mixed-Use and Bay Road Mixed-Use sub-districts, any use permitted as a Principal Use is also permitted as an Accessory Use provided such use is customarily incidental to the main or principal building or use of the land.

Commented [RS5]: See my prior comment and review and confirm this is accurate.

4.1 GENERAL REGULATIONS.

4.1.2 Table of Dimensional Regulations. The Table of Dimensional Regulations is hereby declared to be a part of this By-law.

TABLE OF DIMENSIONAL REGULATIONS₇

	R-1A	R-1B	RA	B
Minimum Lot Area per Dwelling Unit (sq. ft.)	20,000	40,000	80,000	ZBA ₁
Minimum Lot Frontage (ft.)	125	175	175	ZBA ₂
Minimum Lot width and depth (ft.) (for Dwellings, see also Sections 4.2.2, 4.2.6 and 4.3)	100 at building	100 at building	100 at building	ZBA ₃
Maximum Building Height (ft.)	35	35	35	35
Maximum number of Stories	3	3	3	3
Maximum Building coverage of Lot (%)	25	25	25	75 ₄
Minimum Front Yard (ft.) (See also Section 4.2.4)	25/50 _{s2}	25/50 _{s2}	25/50 _{s2}	25/50 _s
Minimum Side Yard and Rear Yard (ft.)	15	15	15	ZBA ₆

1. For each Dwelling Unit, minimum lot area is twenty thousand (20,000) square feet or as determined by the SPGA. For other uses, to be determined during site plan review.
 2. For a Building that contains a Dwelling Unit, 125 feet. For all other uses, to be determined during site plan review.
 3. To be determined during site plan review.
 4. Or as determined during site plan review.
 5. Twenty-five (25) feet from the Street line, or fifty (50) feet from the Street center line, whichever is greater.
 6. For a Dwelling Unit, 15 feet. For all other uses, to be determined during site plan review.
7. Dimensional Requirements for the Town Center Sub-Districts are found in Section 9.8 of the Zoning By-law.

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

Commented [RS6]: See my other comments on non-conformities. This may need revision.

5.1 APPLICABILITY. This By-law shall not apply to Structures or uses lawfully in existence or lawfully begun, or to a Building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this By-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and Structures may continue, provided that no modification of the use or Structure is accomplished, unless authorized hereinafter. This Section, with the exception of Subsection 5.1, shall not apply to Structures or uses in the Town Center Sub-Districts which are regulated under Section 9.8.1.4 of the By-law.

6.3 SIGNS.

6.3.2 Residence Districts and Downtown Residential Sub-District.

Commented [RS7]: See my prior comment about changing residence to the 3 specific existing districts.

6.3.3 Business District, Bay Road Mixed-Use and Willow Street Mixed-Use sub-districts of the Town Center District.

6.3.4 Standards

8. A sign in the Business District, Bay Road Mixed-Use and Willow Street Mixed-Use sub-districts of the Town Center District shall not exceed a total area of (6) square feet.

8.3 INCLUSIONARY HOUSING

8.3.3 Mandatory Provision of Affordable Housing Units. In any development subject to this Section, the tenth dwelling unit and every seventh unit thereafter shall be an Affordable Housing Unit, except in the 3A-MFOD, Bay Road Mixed-Use, Willow Street Mixed-Use, and Downtown Residential sub-districts, where the tenth dwelling unit and every tenth unit thereafter shall be an Affordable Housing Unit. Nothing in this Section shall preclude a developer from providing more Affordable Housing Units than are required hereunder. In the 3A-MFOD, Bay Road Mixed-Use, Willow Street Mixed-Use, and Downtown Residential sub-districts, the cap on the income of families or individuals who are eligible to occupy the Affordable units shall be not less than 80% of area median income and in no event shall any multi-family housing development be required to make affordable more than 10% of the residential units.

9.1 GROUNDWATER PROTECTION OVERLAY DISTRICT (GPOD)

9.1.4 Dimensional Requirements. Regardless of the minimum Lot size of the underlying zone, there shall be a minimum lot area of eighty thousand (80,000) square feet per dwelling unit in the GPOD. Proposed development in the 3A-MFOD electing to seek a permit through the provisions of that overlay, and not through the provisions of the underlying district, are exempt from the minimum lot area per dwelling limitation.

Commented [RS8]: Building permit?

9.1.9 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of Special Permit by the Zoning Board of Appeals under such conditions as it may require. Proposed development in the 3A-MFOD electing to seek a permit through the provisions of that overlay, and not through the provisions of the underlying district, are exempt from the Special Permit Requirement.

Commented [RS9]: Building permit?

10.6 SITE PLAN REVIEW

10.6.2 Projects Requiring Approval. No building permit shall be applied for or issued for any construction or alteration subject to this Section, as specified below, until a site plan has been approved or conditionally approved by the Planning Board as set forth herein. Except as exempted in the By-law, site plan review shall be required for the following construction, alterations, and uses:

Commented [RS10]: This appears to be the old language. In my opinion, you need to use the adopted at the most recent Town Meeting. Once that is done, I can address how the site plan changes will be handled between the two articles.

1. Any new construction, ~~or alteration, or expansion of a commercial, industrial, institutional or multi-family residential use, or conversion to a business, office, industrial, institutional, or multi-family residence Building or Structure in any district;~~

2. Any alteration or extension of a nonconforming commercial, industrial or institutional structure in ~~a Residential zone the R-1A, R-1B, RA Districts and in the Downtown Residential Sub-district of the Town Center;~~

3. A change of use of a site or structure from one permitted use category to another, including but not limited to the conversion of a single-family or two-family dwelling to a multi-family residential dwelling, commercial use, or mixed-use development.

~~34. Parking lots over five (5) spaces serving any commercial, industrial, institutional, agricultural, or multi-family residential use. of the above-listed types of Buildings, schools, hospitals, nursing homes, long term care facility, life care facilities, children's camps, campgrounds, churches, multi-family structures for more than two (2) Families, government buildings and structures, farm stands, and Buildings in commercial, and/or office use;~~

4. Industrial and scientific research use under Section 3.2;

5. Stables providing boarding and/or services for more than six (6) horses other than those owned by the residents of the Lot on which the stable is located;

6. Greenhouses for commercial production of plants or produce;

7. Interior alterations which increase the commercial, industrial, institutional or multi-family floor area within an existing Building, and/or which change the number of separately leasable or saleable spaces within an existing Building; and

8. Wind Energy Facilities in the Commercial Overlay District.

10.6.4 Exemptions from Site Plan Review. The following activities shall not require site plan review or abbreviated site plan review:

1. Interior alterations unless the alterations increase the floor area within the building devoted to any of the uses listed in Section 10.6.2 and/or change the number of separately leasable or saleable spaces within the Building. Examples of exempt interior alterations are: paneling, shelving, partitions other than those creating new commercial units, counters, flooring and general interior decoration;

2. Repairs, repainting, residing, reroofing and window replacement unless the activity also increases floor area;

3. Replacement of parts of a partially damaged Building that would normally require site plan review with generally identical portions. Total replacement of such a destroyed Building shall require site plan review;

4. Demolition of a Building or Structure;

5. Change of tenant of commercial or mixed-use building, ~~unless there is also provided that a change of the use category is not proposed and/or that no~~ new construction triggering site plan review is proposed;

6. Customary home occupations;

7. Townhouse or Multifamily housing developed under Sections 8.1 (OSFPD) or 8.2 (Senior Housing);
8. Uses permitted by special permit within the Commercial Overlay District; and
9. Entries B.1, B.3, and B.7 in the Table of Uses shall require site plan review under Section 10.7.

11.0 DEFINITIONS

Dwelling, Multi-Family or Multi-family housing: A building with ~~containing five~~ three or more residential dwelling units, or two or more buildings on the same lot with more than one residential dwelling unit in each building.

Insert an entirely new Section 9.8 Town Center District as follows:

9.8 TOWN CENTER DISTRICT.

1. Introduction. The Town Center District consists of 3 sub-districts: Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential, all located in the Town Center area of Hamilton. Collectively, these sub-districts shall be referred to as the Town Center District however each sub-district contains its own use, dimensional, and associated regulations as stipulated under this section. This Section consists of seven sub-sections that follow this introduction:

- a. *Purpose and Intent.* This Section introduces the purpose and intent of the zoning generally, how and where it is to be applied, and how the regulations of this Section relate to other Sections of the By-law.
- b. *Interpretation.* This Section provides definitions and explanations of the terms and metrics that are used to regulate building scale, form and placement. Many of the terms are unique to this Section.
- c. *Town Center Sub-districts.* This Section describes the purpose and intent of each sub-district, as well as any relevant planning considerations.
- d. *Dimensional Standards.* This Section includes district-wide tables with dimensions for lots and Buildings.
- e. *Use Provisions.* This Section offers additional conditions and clarifications to the general use table.

- f. *Site Standards.* This section provides standards for site design elements including vehicular and pedestrian access, parking, screening, building materials, landscaping, and lighting. It also establishes appropriate landscape treatments and contextually appropriate building materials.
- g. *Administration.* This Section outlines the permitting path for proposed development, including whether Site Plan Review or a Special Permit is required.

9.8.1. Purpose and Intent.

1. *Purpose.* The purpose of this Section of the Hamilton Zoning By-law is to regulate the use of land, Buildings, and structures in the Town in a way that preserves the historic village character of Downtown Hamilton, and to provide standards for multi-family housing development that are both in accordance with G.L. c. 40A, § 3A and the Regulations issued by the Executive Office of Housing and Livable Communities (HLC) set forth at 760 CMR 72.00 and consistent with the Town's existing character.

2. *Intent.* This Section is intended to ensure development in Hamilton's Downtown contributes to the realization of the Hamilton Town Center Vision Plan developed over the course of a townwide visioning process conducted throughout 2024 and 2025. Specifically, this Section intends to:

- a. Ensure that new development is compatible with the historic and village character of Downtown Hamilton.
- b. Preserve and enhance the historic commercial corridor along Railroad Avenue and Depot Square.
- c. Promote activity in the Downtown, support commercial uses and promote increased walkability.
- d. Provide a variety of housing types that cater to the diverse and changing needs of Hamilton's residents.
- e. In conjunction with Section 9.7, 3A Multi-Family Overlay District, comply with G.L. c. 40A, § 3A and the Section 3A Compliance Regulations of the Executive Office of Housing and Livable Communities (HLC) (760 CMR.72.00).

3. *Applicability.*

- a. *Territorial Application.* This Section is applicable to all real property, structures, and uses located in the Bay Road Mixed-Use, Downtown Mixed-Use and Downtown Residential sub-districts as these sub-districts are depicted on the official Town of Hamilton Official Zoning Map dated June 26, 2025.

b. *Conflicting Provisions.*

- (i) If any condition or requirement imposed by this Section contains an actual, implied or apparent conflict with another provision of this Section, the more restrictive condition or requirement controls.
- (ii) If any condition or requirement imposed by this Section contains an actual, implied or apparent conflict with any condition or requirement of any other provision of the Town of Hamilton's Zoning By-law, the provisions of this Section control.

c. *Text and Graphics.* Illustrations, photographs and graphics are included in this Section to illustrate the intent and requirement of the text. In the case of a conflict between the text of this Section and any illustrations, the text governs.

d. *Existing Applications and Permits.* The applicability of this Section with respect to existing and proposed uses and structures is governed by Section 1.4.1, Applicability/Nonconformities, Section 1.4.2, Commencement of Construction or Operation, Section 5.1, and Section 9.8.1.4 *Nonconformities*.

e. *Severability.* If any provision of Section 9.8 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9.8 shall not be affected and shall remain in full force. The invalidity of any provision of Section 9.8 shall not affect the validity of the remainder of Hamilton's Zoning By-law. If any metric set forth in the Regulations issued by the HLC at 760 CMR 72.00 is amended, this Section may be amended to utilize the revised metrics set forth in the amended Regulations.

4. *Nonconformities.*

- a. *Purpose & Intent.* The purpose of this Subsection is to regulate and limit the continued existence of uses and structures established prior to the effective date of this By-law (or any amendment subsequent thereto) that do not conform to this By-law such that all buildings, structures or land, in whole or in part, will be used or occupied in conformance with this Section.

Many nonconformities may continue, but the provisions of this Section are designed to curtail substantial investment in nonconformities and to bring about their eventual elimination and/or lessen their impact upon surrounding conforming uses to preserve the integrity of the Town Center Districts in accordance with the intent of this By-law.

- b. *Nonconforming Uses.* A nonconforming use may continue only in accordance with Section 5.1 of the By-law and the provisions of this Subsection.

- (i) *Repair and Maintenance.* Normal repair and maintenance may be performed to allow the continuation of nonconforming use.

Commented [RS11]: I need to think more about this section and then we should talk before deciding how, if at all, it will be divided between the two articles. At a minimum, I think the nonconforming use provisions need to be in the ½ article.

My initial comments are below.

Commented [RS12]: I don't recommend including this.

(ii) *Reconstruction after Catastrophe or Demolition.*

- a If a nonconforming use within a structure is voluntarily demolished, the nonconforming use shall not be reestablished.
- b A nonconforming use in a structure may be re-established in case of damage, to an extent equal to or less than 50 percent of the assessed improvement value of the property on which it is located provided that the improvements comply as closely as possible to the standards of this Bylaw.
- c If a building in which a nonconforming use is damaged, to an extent greater than 50 percent of the assessed value of the portion of the building in which the nonconforming use is situated, such nonconforming use shall not be continued or re-established.

Commented [RS13]: This section seems to conflate use and structure and that should be addressed.

I note that G.L. c. 40A, s. 6. provides that "A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more." It is not clear how this section can be applied relative to uses located in involuntarily damaged structures.

A nonconforming use in a conforming structure may be different than if the structure is also nonconforming.

Commented [RS14]: What does this mean?

Commented [RS15]: Who makes this decision?

Commented [RS16]: How is this calculated?

(iii) *Modification.*

- a A nonconforming use may change to a permitted use as stipulated under the Table of Use Regulations (Section 3.0 of the Zoning By-law).
- b A nonconforming use shall not otherwise be modified or expanded unless a Special Permit is granted by the Planning Board.
 - i. In addition to the Special Permit criteria included in this Bylaw, the Planning Board shall consider the following in its discretion to approve or deny a special permit:
 - a. The extent and nature of the proposed alteration.
 - b. The consistency of the proposed alteration with the spirit of the Zoning By-law.
 - c. The impact of the proposed alteration to the neighborhood when compared to the existing nonconforming use.

(iv) *Abandonment.* If a nonconforming use is abandoned for two years or more, the use shall not be permitted to re-establish.

c. *Nonconforming Structures.* A nonconforming structure may continue only in accordance with Section 5.1 of the By-law and the provisions of this Subsection.

- (i) *Repair and Maintenance.* Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.
- (ii) *Reconstruction after Catastrophe or Demolition.*

Commented [RS17]: See my prior comment about this. The law distinguishes between abandonment which requires intent and can happen at any time and discontinuance which requires 2 years. You can regulate for one or the other or both. What is the intent here?

Commented [RS18]: I recommend including language relative to single - and two family structures. The first paragraph of 40A, s. 6 will apply and sets the floor of protections. Do want the ZBA to handle those in the usual way or something else?

- a. If a nonconforming structure is voluntarily demolished, any replacement structure must be conforming to the By-law.
- b. If a nonconforming structure is damaged to an extent greater than 50 percent of its assessed value for tax purposes, it may be rebuilt only in conformance with the standards of this ordinance.
- c. If a nonconforming structure is damaged to an extent equal to or less than 50 percent of its assessed value for tax purposes, then the structure may be rebuilt in accordance with the following standards:
 - i. A building permit for reconstruction must be secured no later than one-year from the date of destruction.
 - ii. A nonconforming structure shall not be rebuilt in a manner which increases its nonconformity.

Commented [RS19]: See my prior comment about the statute and 2 years.

(iii) *Modifications/Alterations.*

- a. A primary or accessory nonconforming structure shall not be enlarged or altered in a way which increases its nonconformity or creates a new nonconformity.
- b. Modifications to a nonconforming structure which constitute a Substantial Improvement shall not be permitted unless the structure is made conforming with the requirements of the By-law or, if non-conformities remain, by issuance of Special Permit by the Planning Board.
 - i. In addition to the Special Permit criteria included in this Bylaw, the Planning Board shall consider the following in its discretion to approve or deny a special permit:
 - a. The extent and nature of the proposed alteration.
 - b. The consistency of the proposed alteration with the spirit of the Zoning By-law.
 - c. The impact of the proposed alteration to the neighborhood when compared to the existing nonconforming use.
- c. Should a nonconforming structure be moved for any distance on the lot upon which it is located, it shall be moved to make the structure conforming to setbacks.
- d. No nonconforming accessory structure shall continue after the principal structure is terminated by abandonment, damage, or destruction unless such accessory structure is made to conform to the standards for a principal structure.

Commented [RS20]: I don't think you can require the removal of a nonconforming accessory structure on this basis.

Also, what does "the termination of the principal structure" mean?

- d. *Nonconforming Site Characteristics.* Nonconforming site characteristics governed under Section 9.8.6 Site Standards, including parking, driveways, landscaping, lighting, and screening, shall not be altered such that they are made more non-conforming with the standards and requirements of this By-law.

9.8.2 Interpretation

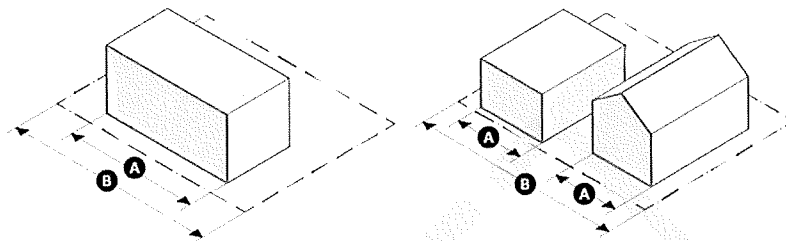
1. *Site Dimensional Standards and Measurements.*

- a. *Yards.* See Section 11, Definitions. Each yard measurement is made perpendicular to the property line and begins at the property line. Measurements are made to the nearest portion of the Building, excluding open porches less than 8 (eight) feet deep and bay windows less than 3 ft. deep.
- b. *Lot Frontage.* See Section 11, Definitions. For lots bounded by more than 1 (one) street, all frontages shall conform to the dimensional standards applicable to the front.
- c. *Lot Size.* The area of a Lot, measured as the land within the parcel lines.
- d. *Open Space.* Refers to land within a lot not covered by any structures or area dedicated to vehicular use including parking spaces and drive aisles.
- e. *Parking Setbacks.* All parking spaces must be located behind the Parking Setback lines or as otherwise indicated. Each setback measurement is made perpendicular to the property line and begins at the property line.
- f. *Number of Buildings.* Multiple Buildings are permitted on each lot, subject to the dimensional requirements listed in Section 9.8.4. Where there are more than 1 (one) Building, Floor Area Ratio limitations shall apply to all Buildings cumulatively, and maximum Building Footprint limitations shall be applied on a per Building basis.
- g. *Street Facing Entry Feature.* Refers to a Building entry that is directly accessible and visible from a street. Entry doors are not required to face the street so long as they are accessed through a porch, patio, plaza, canopy or other element facilitating direct visual and physical access from the street.

2. *Building Dimensional Standards and Measurements.*

- a. *Depth.* Refers to the measurement of a Building, yard, or setback measured perpendicular to a front lot line, excluding open porches less than 8 (eight) feet deep and bay windows less than 3 (three) feet deep.
- b. *Facade Buildout.* The ratio of the facade width within the minimum and maximum Front Yard dimensions to the lot width, calculated by dividing the cumulative facade width by

the lot width. Facade Buildout is intended to ensure that new development addresses the street in a pedestrian-friendly manner and that frontage conditions are compatible with existing patterns.



Single Building per Lot = $A \div B$

Multiple Buildings per Lot = $(A + A) \div B$

Figure 1. Facade Buildout

- c. *Facade Length without Offset.* The maximum allowable length of any Building facade, front, side or rear, without a change in plane of 5 (five) feet or greater, extending from the ground plane to the Roof. The purpose of offset requirements is to limit long, undifferentiated facades and to ensure that larger Buildings are broken down into smaller elements that are more reflective of the existing context.

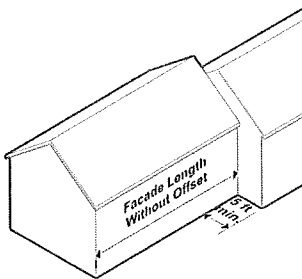


Figure 2. Facade Length without Offset

- d. *Building Footprint.* The area of land occupied by a Building, defined by the outer edge of its foundation and exterior walls inclusive of covered parking and other enclosed spaces. Cantilevered elements that do not touch the ground, such as bay windows, do not contribute to the calculation of footprint area provided they do not protrude more than 3 (three) feet from the face of the Building. Unenclosed porches less than 8 (eight) feet deep do not contribute to the calculation of the Building Footprint.

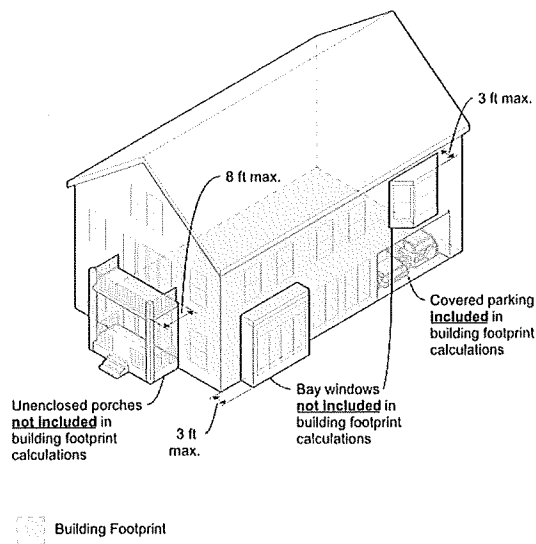


Figure 3. Building Footprint

- e. *Building Separation.* The distance between Buildings on a lot, measured from the nearest primary face of each Building at its closest point, excluding bay windows less than 3 ft. deep and porches less than 8 (eight) feet deep.

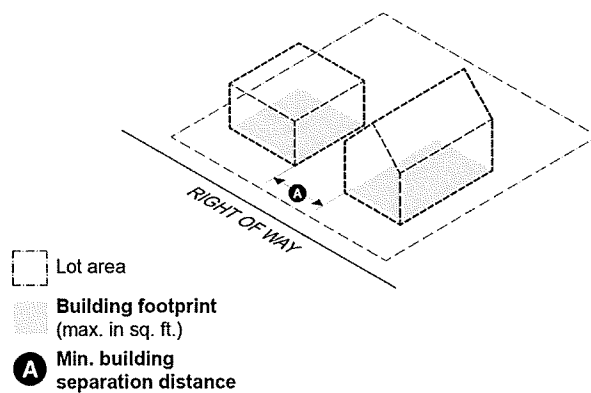
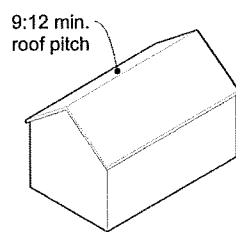
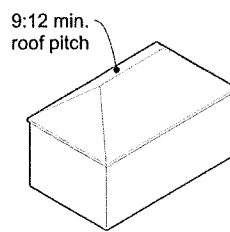


Figure 4. Building Separation

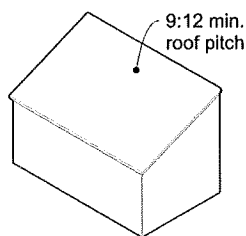
- f. *Height.* See Section 11, Definitions. In the Town Center District, for Buildings on lots fronting more than 1 (one) public way, height shall be measured from all frontages.
- g. *Roof Type.* Roof forms include gable, hip, gambrel, mansard, shed, and flat, and are permitted as detailed in Section 9.8.4.2. Gable, hipped and shed roofs shall have a minimum slope of 9:12.



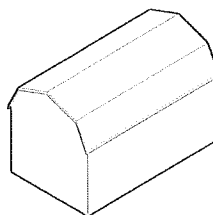
Gable Roof



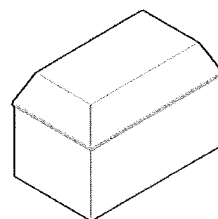
Hipped Roof



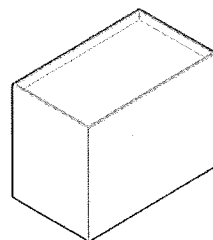
Shed Roof



Gambrel Roof



Mansard Roof



Flat Roof

Figure 5. Roof Type

- h. *Width.* Measurement of the length of a Building parallel to a front Lot line.
- i. *Fenestration.* The percentage area of glazing at the ground level, measured between 2 (two) feet and 10 (ten) feet above the finished floor of the ground story. Where fenestration requirements apply, ground story windows should be display windows that may or may not have muntins and/or mullions, decorative stiles and or a combination of display windows and transoms supported by appropriate kickplates. The windows may be segmented with trim, piers or wall plane. Where required, minimum ground floor fenestration is intended to ensure that ground floor uses can activate the public realm.

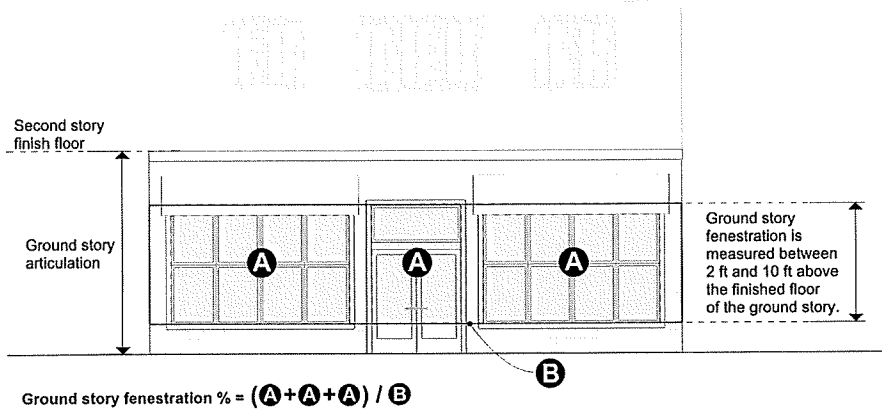


Figure 6. Ground Story Fenestration

- j. *Half story.* The occupiable portion of a Building between the uppermost floor and a pitched roof supported by a bottom plate no greater than 3 (three) feet above the floor level, and containing dormers whose aggregate length is less than 50% of the length of the roof measured horizontally. Where a story is being counted as a half story, dormers shall be located a minimum of 3 (three) feet from the edge of the primary roof. The uppermost level of gambrel, mansard and flat roofs may not be considered a half story and shall be considered a full story.

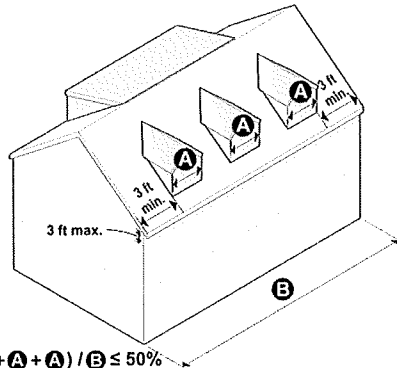


Figure 7. Half Story

9.8.3. Town Center Sub-Districts.

1. *(reserved)*

2. *(reserved)*

3. *Bay Road Mixed-Use.*

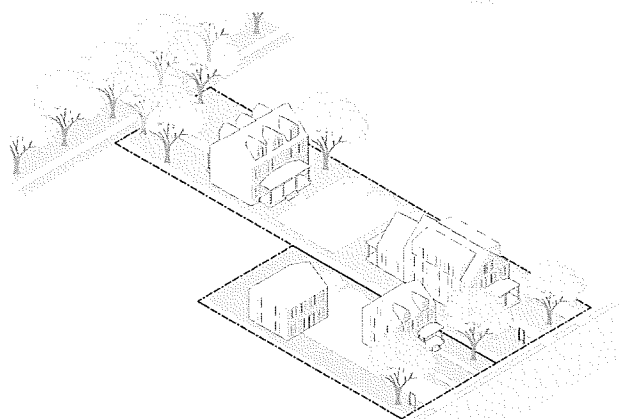


Figure 11. Bay Road Mixed-Use Sub-District Vision Illustration

- a. *Description.* Most of the Bay Road Mixed-Use sub-district matches the form of nearby residential areas where buildings have small footprints and a maximum height of two and a half stories. The eastern half of the sub-district contains a mix of residential, commercial, and civic uses, and is characterized by generous front yards and building types that are residential in form. The western side of Bay Road has a greater mix of building types and uses, and hence less consistent street edge and front yard conditions.
- b. *Purpose and Intent.* The regulations for the Bay Road Mixed-Use sub-district are intended to preserve and restore the historically scenic character of Bay Road, when the thoroughfare was tree-lined and more pedestrian-oriented in nature, while allowing a variety of uses, including residential and commercial. Several parcels on the east side of Bay Road abut an unused rail corridor and potential future recreational pathway. Consideration should be given to these important future connections in the planning of these deep lots where multiple frontages and access points may be possible.

Figure 12. Important Bay Road Mixed-Use Visual and Pedestrian Connections

4. Willow Street Mixed-Use.

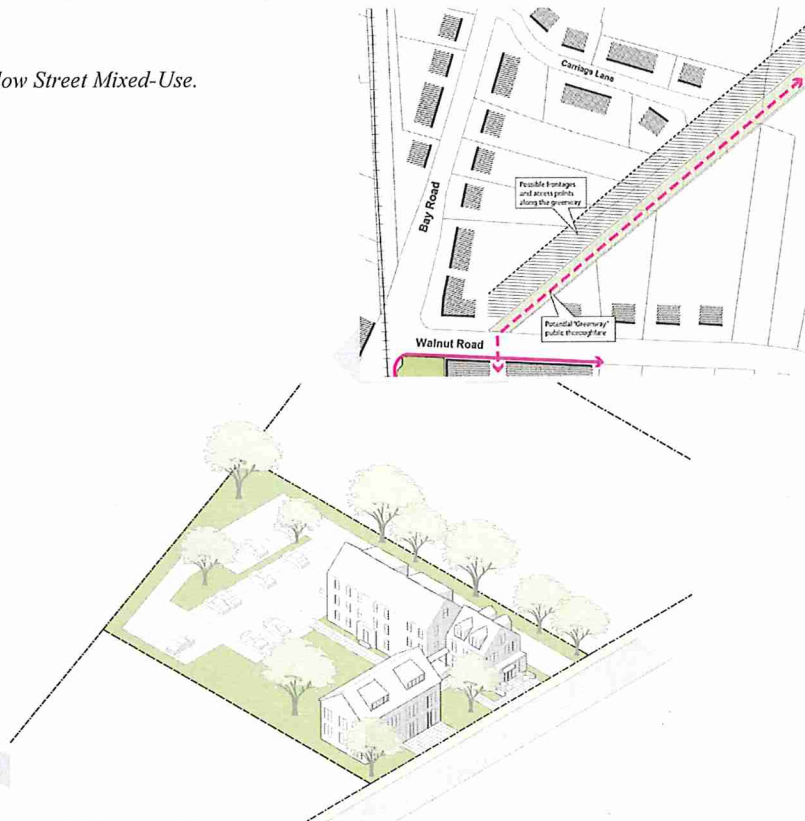


Figure 13. Willow Street Mixed-Use Sub-District Vision Illustration

- a. *Description.* The Willow Street Mixed-Use sub-district contains a variety of forms and uses. Portions of the sub-district have commercial and/or light industrial-use buildings with relatively large footprints, other portions have mixed-use buildings with moderately sized footprints, while other portions of the site are primarily residential with smaller footprints. The orientation of the rail corridor is such that rear yards are rarely consistent in depth. The objective of the code is to promote a more vibrant and walkable sub-district through the activation of mixed-use building frontages while respecting the scale and residential character of the adjacent Downtown Residential sub-district.

- b. *Purpose and Intent.* The objective of the code is to promote a more vibrant and walkable sub-district by activating mixed-use building frontages while respecting the scale and residential character of the adjacent Downtown Residential sub-district. Already mixed-use in character, the east side of Willow Street can accommodate more pedestrian-friendly ground floor uses and frontage conditions, supported by new residential uses. The By-law restricts the scale of buildings directly along Willow Street to match the abutting Downtown Residential sub-district and allows for taller buildings toward the rear of the lot.

5. *Downtown Residential.*

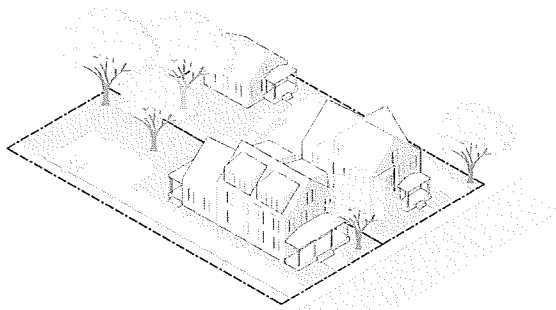


Figure 14. Downtown Residential Sub-District Vision Illustration

- a. *Description.* The Downtown Residential sub-district is characterized by buildings that sit on small lots with small footprints and with a height of about two and half stories. This sub-district is almost entirely residential with a very small selection of parcels with commercial or institutional uses.
- b. *Purpose and Intent.* The regulations seek to preserve the existing scale and character of the neighborhood while permitting incremental infill development and adaptation. The dimensional standards reflect the current single-family patterns while allowing for additional units within those envelopes.

9.8.4. Dimensional Standards.

1. Site Dimensional Requirements.

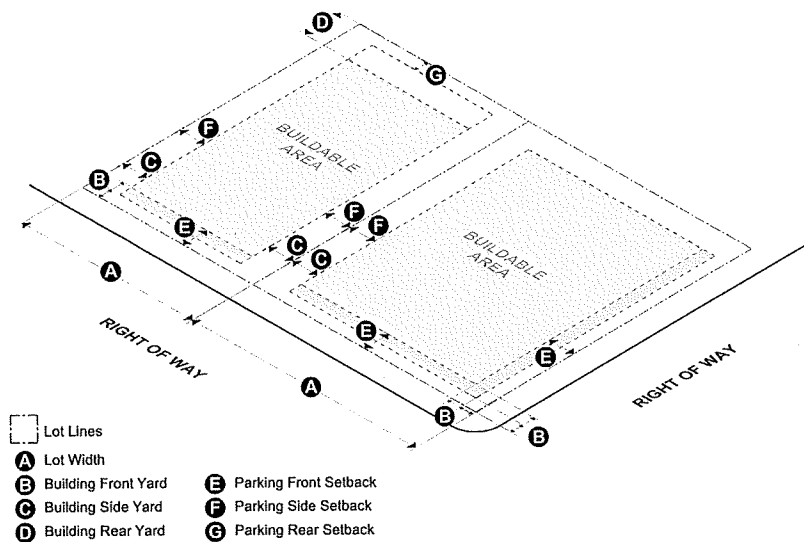


Figure 15. Site Dimensional Requirements (see description of terms in Section 9.8.2)

TABLE OF SITE DIMENSIONAL STANDARDS: TOWN CENTER DISTRICT.

	Lot Dimensions	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Lot Size (min)	1,000 square-feet	5,000 square-feet	3,000 square-feet	3,000 square-feet	5,000 square-feet
A	Lot Width (min)	20 feet	40 feet	40 feet	30 feet	40 feet
	Coverage	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Open Space (min)	0%	40%	40%	40%	40%
	Building Yards Setbacks	Depot Square 2	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic

Commented [RS21]: The columns for Depot Square and Bay Road Civic need to be deleted. When I try it messes up the table.

B	Front Yard Setback on Streets (minimum / maximum) 1	0 / 10 feet	20 / 35 feet	10 / 20 feet	10 / 20 feet	20 / 35 feet
C	Side Yard Setback (minimum)	0 feet	5 feet	5 feet	10 feet	10 feet
D	Rear Yard Setback (minimum)	0 feet	15 feet	15 feet	15 feet	10 feet
	Parking Setbacks	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
E	Front Setback (minimum)	10 feet	Aligned with, or set back further than, Building Frontage			
F	Side Setback (minimum)	0 feet	5 feet	5 feet	5 feet	5 feet
G	Rear Setback (minimum)	0 feet	5 feet	5 feet	5 feet	5 feet
	Parking Requirements	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Parking Spaces (minimum)	Per Section 6.1 or by Special Permit				

2. Building Dimensional Standards.

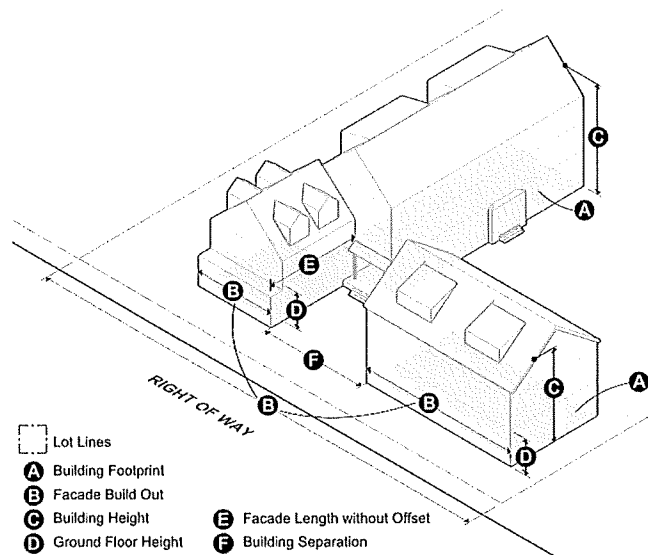


Figure 16. Building Dimensional Standards

TABLE OF BUILDING DIMENSIONAL STANDARDS: TOWN CENTER DISTRICT
See Footnotes to Table for additional requirements and/or clarifying information.

Commented [RS22]: Again, the columns for dept square and bay road civic need to be deleted.

	Massing	Depot Square ¹	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
A	Building Footprint (maximum per Building)	5,000 square-feet	3,000 square-feet	5,000 square-feet	3,000 square-feet	N/A
B	Facade Buildout (minimum) ²	60%	35%	35%	35%	35%
C	Height (maximum)	35 feet / 2.5 stories	35 feet / 2.5 stories	35 feet / 2.5 stories for the first 60 feet from the front lot line, 45 feet / 3.5 stories elsewhere	35 feet / 2.5 stories	35 feet / 2.5 stories
	Number of Stories Minimum	N/A	2	2	2	2
D	Ground Floor Height	13 / 15 feet	13 / 15 feet	13 / 15 feet	N/A	N/A

	(minimum / maximum)					
	Floor Area Ratio (maximum)	N/A	0.39, or up to 0.45 by Special Permit only	0.42, or up to 0.45 by Special Permit only	0.39, or up to 0.45 by Special Permit only	N/A
E	Facade Length without Offset (maximum)	70 feet	70 feet	70 feet	70 feet	70 feet
F	Building Separation (minimum)	10 feet	10 feet	10 feet	20 feet	0 feet
	Roof	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Allowed Roof Type ³	Gable, hip, gambrel, mansard, shed, flat	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed, flat
	Windows	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Ground Story Fenestration (minimum)	50%	N/A	N/A	N/A	20%
	Doors	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Street Facing Entry Feature	Required	Required	Required	Required	Required

Footnotes to Table of Building Dimensional Standards:

1. (reserved)
2. For Lots with more than one frontage, the minimum Facade Buildout requirements shall apply to each frontage individually, and not cumulatively.
3. Roof forms may be combined, so long as minimum roof steepness is maintained.

9.8.5. Use Provisions.

1. The allowable uses and accessory uses in the Town Center District are contained in Section 3.0, Use Regulations. The following clarifications and exceptions are made with respect to the Town Center District sub-districts only:

- a. Use A6, a Garage with more than 4 motor vehicle spaces, is permitted in the Bay Road Mixed-Use, and Willow Street Mixed-Use sub-districts provided it is:

- (i) Accessory to a Multi-Family Dwelling and;
- (ii) Located below grade or at grade beneath the primary Building massing and not within a stand-alone structure.

9.8.6. Site Standards.

1. *Site Access.*

All development must provide vehicle, pedestrian, and bicycle access to and from a street.

a. *Pedestrian Access.*

- (i) All development must provide pedestrian access connecting main entrances of Buildings, establishments or uses on a site that allows for public access, with all other public entrances with available access points including adjacent rights of way, all parking lots, and sidewalks.
- (ii) Pedestrian access must consist of an accessible, easily discernible walkway with a minimum width of 5 (five) feet.
- (iii) Pedestrian access routes between Buildings must be physically separated from parking lots, except where required to cross a drive aisle; crossings must be perpendicular wherever practicable.

b. *Vehicle Access.*

- (i) All parking spaces, parking lots, and Driveways must have vehicle access from a street.
- (ii) No parking spaces or parking lots shall be located within the front yard of principal structures. Parking of vehicles shall be allowed within driveway areas providing access to a principal structure, as long as the driveway is designed at a proper width for parking.
- (iii) No parking areas, parking lots or access drives shall be located within the minimum separation area between structures.
- (iv) Parking garage entries that face a public way must be set back 60 (sixty) feet from the property line(s) abutting the public way.

2. Parking.

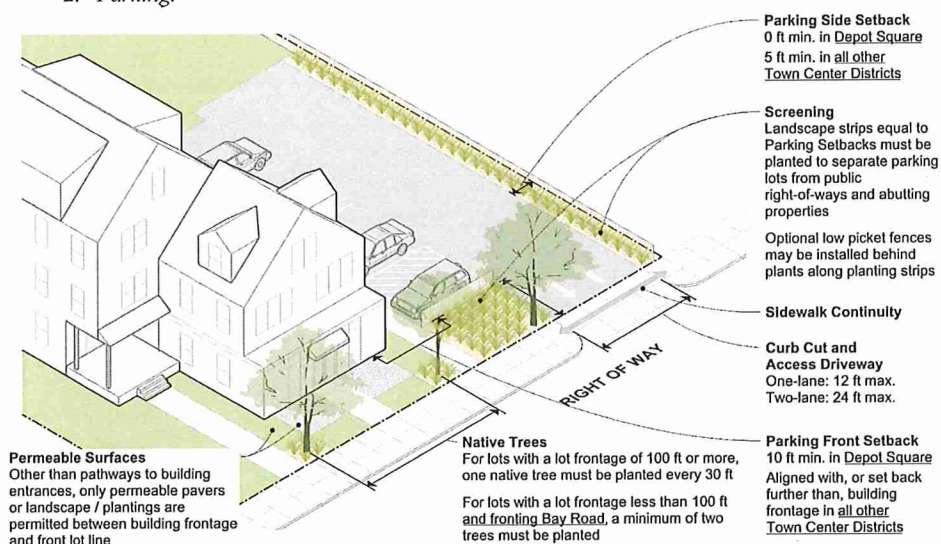


Figure 17. Parking Standards

- a. The quantity of off-street parking spaces shall be in accordance with the requirements of Section 6.1, Offstreet Parking and Loading Areas.
- b. All driveways must comply with Section 6.2.2, Driveway Standards.
- c. All parking spaces and structures must be located at or behind any required Parking Setbacks as specified for each sub-district of the Town Center District.
- d. The maximum width of a curb cut and driveway for access to parking lots and structures is as follows:
 - One-lane: 12 feet
 - Two-lane: 24 feet
- e. Each lot is limited to 1 (one) curb cut per street frontage. Lots with more than 200 feet of frontage are allowed 1 (one) additional curb cut every 200 feet.
- f. The grade, cross slope, and clear width of the walkway of a sidewalk must be maintained between the driveway apron and the abutting driveway. The appearance of the walkway (i.e., scoring pattern or paving material) must indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the pedestrian sidewalk.

- g. Shared driveways are encouraged where they reduce the interruption of curb cuts and allow for more landscape treatment. Permits shall be issued subject to the requirements of 6.2.6 Common Driveway.
- h. Parking Lots with 10 (ten) or more parking spaces must have interior islands, median islands, and perimeter islands that conform with the following requirements:
- (i) *Interior Islands.*
- An interior landscape island must be provided every 10 (ten) parking spaces and at the end of every parking row. Intervals may only be modified to preserve existing trees. Interior islands must be distributed evenly throughout the parking area.
 - An interior landscape island abutting a single row of parking spaces must be a minimum of 8 feet in width and 150 square-feet in area (measured inside the curb). The island must include 1 (one) tree with a minimum caliper of 2.5 inches.
 - An interior landscape island abutting a double row of parking spaces must be a minimum of 8 (eight) feet in width and 300 square-feet in area (measured inside the curb). This island must include 2 trees with a minimum caliper of 2.5 inches.
- (ii) *Median Islands.*
- A median landscape island must be provided between every 4 (four) rows of parking. Intervals may be modified to preserve existing trees.
 - A median landscape island must include a tree with minimum caliper of 2.5 inches spaced every 30 feet on average. Trees planted in an interior landscape island that overlap may be included in the count.
 - A median landscape island must be a minimum of 6 (six) feet-wide. A landscape median island with a pedestrian walkway must be a minimum of 12 (twelve) feet-wide (measured inside the curb).
- (iii) *Perimeter Islands.*
- A perimeter landscape island is required on the outer edge of all parking lots when abutting the street or an internal access drive.
 - A perimeter landscape island must be a minimum of 10 (ten) feet-wide not including any curbing.

- Landscaping of perimeter islands must include evergreen shrubs planted 3 (three) feet on center in a planting bed that is of a width suitable for the required plant spacing, but at least 36 (thirty-six) inches wide.
- A perimeter landscape island must include a tree with minimum caliper of 2.5 inches spaced every 30 (thirty) feet on average.

3. *Screening.*

a. *Parking Lots.* Parking lots must be separated from the public right-of-way and abutting properties by a landscaped strip with a depth equal to the Parking Setbacks as specified in the Dimensional Requirements for each sub-district of the Town Center District. The landscaped strip must adhere to the following design standards:

- (i) The landscape strip must run the full length of the parking lot perimeter along the right-of-way, excluding curb cuts and driveways.
- (ii) The landscape strip must be planted with shrubs, perennials, native grasses, and other planting types that provide screening from the public right-of-way.
- (iii) An optional low picket fence or pedestrian wall may be installed behind the landscape strip and set back up to 24 (twenty-four) inches from the adjacent parking lot to accommodate for car overhang.
- (iv) The use of Low-Impact-Development (LID) stormwater management techniques such as rain gardens and bioswales is encouraged in landscape strips.

b. *Waste Receptacles.*

- (i) Outdoor waste receptacles must be located to the side and rear of Buildings.
- (ii) Outdoor waste receptacles must be screened on 3 (three) sides by an opaque wall or fence a minimum height of 6 feet.
- (iii) Access gates must be provided on the fourth side and must also be a minimum height of 6 feet.

c. *Roof-Mounted Equipment.* All outdoor mechanical, electrical or utility equipment (except for solar panels, wind turbines and antennas) must be screened on the roof edge by an opaque parapet wall or other type of screen that is at least a height 6 inches higher than the topmost point of the equipment being screened.

d. *Ground-Mounted Equipment.*

- (i) Ground-mounted mechanical, electrical or utility equipment must be located to the side or rear of Buildings.

- (ii) Ground-mounted mechanical, electrical or utility equipment visible from a public right-of-way must be fully screened by an opaque wall or fence or other type of screen that is at least a height 6 inches higher than the topmost point of the equipment being screened.

e. *Wall-Mounted Equipment.*

- (i) Wall-mounted mechanical or electrical equipment must be located to the side or rear of Buildings.
- (ii) Wall-mounted mechanical, electrical or utility equipment visible from a public right-of-way must be fully screened by an opaque wall or fence or other type of screen that is at least a height 6 inches higher than the topmost point of the equipment being screened.

4. *Building Materials.*

- a. *Applicability.* The Building material requirements set forth below apply to the exterior visible surfaces of Buildings and structures, including accessory structures, which are subject to Site Plan Review.

- (i) Existing structures undergoing regular maintenance or enlargement must use materials similar in color, size and texture to the original structure's materials as to blend patch or repair work seamlessly with existing materials.
- (ii) Replacement of existing materials that are not permitted by this Section must be completed by permitted materials. This standard does not apply to small patches, rather it is intended for whole replacement, i.e. whole roof replacement or whole facade reconstruction.
- (iii) Exterior building materials must be those typically used in historic construction or be a composite or synthetic material that bears a strong resemblance to traditional building materials, including but not limited to brick, wood siding, engineered wood, or fiber cement artificial wood siding, asphalt shingle, tile roof shingle, copper roofing, stone masonry, and stucco.
- (iv) Concrete masonry units, pre-cast concrete panels, cinder block, vinyl siding, ribbed metal siding or roofs, EIFS is not allowed unless required due to the expansion of an existing Building to match the original structure.
- (v) All windows and doorways shall be encased with wood or simulated wood trim; decorative trim is preferred. Aluminum windows shall be finished to match the proposed trim color of the Building.

- (vi) Deviation from the standards above will require approval from the Planning Board deeming that the finishes are of a design and quality that will elevate rather than detract from the appearance of the District or, in the case of multi-family housing, application of this Section would be prohibitive as determined by the Planning Board through site plan review.

5. *Landscape Standards.*

- a. *Native Trees.* Native deciduous shade trees must be spaced linearly and parallel to the public right-of-way, and planted at a minimum of 2.5 inches in tree caliper. The number of trees planted must be in accordance with the following:
 - (i) For lots with frontage of 100 feet or more, 1 native deciduous shade tree must be planted every 30 (thirty) feet in the Front Yard unless at least three (3) trees already exist in the Front Yard.
 - (ii) For lots with a lot frontage of less than 100 feet and fronting Bay Road, a minimum of 2 trees must be planted in the Front Yard unless at least two (2) trees already exist in the Front Yard.
- b. *Permeable Surfaces.* Other than pathways to Building entrances or driveways, only permeable pavers or landscape / plantings are permitted within the front yard between Building frontage and the front lot line. Permeable pavers include brick, stone and/or cementitious materials, with joints that allow for the infiltration of water.

6. *Exterior Lighting.* To ensure that impacts of exterior lighting on adjacent properties are controlled, exterior lighting shall adhere to the following requirements:

- a. A lighting plan must be submitted in conjunction with a required site plan.
- b. No glare onto adjacent properties is permitted.
- c. Excessive illumination is prohibited.
- d. Non-overhead light sources, such as bollards and path lights, are encouraged.
- e. The following light sources and fixtures are prohibited:
 - (i) Any exterior uplighting. Lighting fixtures for all areas of vehicular and/or pedestrian access must be full cut-off type fixtures or Illuminating Engineering Society of North America (IESNA) cut-off fixtures, or must be fully shielded/recessed fixtures where the lens is recessed or flush with the bottom surface.
 - (ii) Low-pressure sodium and mercury vapor light sources

- (iii) Searchlights, laser source lights, or any similar high-intensity narrow-beam fixtures
- (iv) Flickering or flashing lights

9.8.7 Administration.

1. *Site Plan Review.* Proposed development in Town Center District may be subject to Site Plan Review as required by Section 10.6, Site Plan Review. Multi-Family housing is allowed by-right in the Bay Road Mixed-Use, Willow Street Mixed-Use, and Downtown Residential sub-districts, subject to site plan review pursuant to Section 10.6, provided however that site plan review for Multi-Family uses cannot be denied. Applicants are encouraged to engage the Planning Board in a Pre-Application Conference.
2. *(reserved).*
3. *Design Review.* The Planning Board, at its discretion, may request the Select Board to form a Design Review Committee and adopt Design Review Guidelines to assist the Planning Board in reviewing applicable Special Permit applications for proposed projects located in the Town Center District. Additionally, the Design Review provisions for Site Plan Review applications, authorized under Section 10.6.9 of the Zoning By-law, may contain guidelines specific to projects proposed in the Town Center District. The Design Review Guidelines, if adopted by the Planning Board, shall identify the scale of projects which require Design Review. The Design Review Committee, if formed, shall be empowered to provide recommendations to the Planning Board concerning the site design and architecture of proposed developments.

Amend the Zoning Bylaw to add an entirely new Section 9.7 3A Multi-Family Overlay District (3A-MFOD) as follows:

9.7 3A MULTI-FAMILY OVERLAY DISTRICT (3A-MFOD).

- 9.7.1 Purpose.** The purpose of the 3A Multi-Family Overlay District (3A-MFOD) is to allow Multi-Family housing development as of right in accordance with G.L. c. 40A, § 3A and the Regulations issued by the Executive Office of Housing and Livable Communities (HLC), as may be amended from time to time. This overlay district, in combination with the Downtown Residential, Willow Street Mixed-Use, and Bay Road Mixed-Use sub-districts of the Town Center District, as described in Section 9.8, together comprise the Town-wide compliance with the requirements of G.L. c. 40A, § 3A. In addition, Section 9.7 is intended to:

1. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels.
2. Increase the municipal tax base through private investment in new residential developments.
3. Develop affordable housing in support of the Town's inclusionary housing goals as outlined in Section 8.3.

9.7.2 Applicability. The 3A-MFOD shall be superimposed over underlying existing zoning district(s). The 3A-MFOD shall not replace any underlying zoning district(s). The regulations for use, dimension, and all other underlying provisions of the Zoning By-law(s) governing the respective underlying zoning district(s) shall remain in full force, except for uses and dimensions allowed as of right in the 3A-MFOD. Uses that are not identified in Section 9.7.3 are governed by the requirements of the underlying zoning district(s).

The 3A-MFOD covers one continuous area surrounding Asbury Street as shown on the 3A-MFOD boundary map, which can be found in the official Town of Hamilton Official Zoning Map dated June 26, 2025. If an applicant's property sits entirely within a 3A-MFOD sub-district, then they may elect to use the zoning provisions of the applicable 3A-MFOD sub-district as described in Section 9.7.3 and 9.7.4.

Commented [RS23]: Does the district split any lots?
Does this impact compliance?

If the applicant elects to proceed under the zoning provisions of the underlying district, the Zoning By-laws applicable in the underlying district shall control and the provisions of the 3A-MFOD shall not apply. If the applicant elects to proceed under the zoning provisions of the 3A-MFOD, they may develop Multi-Family housing as of right within the district in accordance with the provisions of the 3A-MFOD overlay district. When a building permit is issued for any project approved in accordance with this Section 9.7, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 10 for such Project.

9.7.3 Permitted Uses. Multi-Family housing is allowed by-right for all parcels within the 3A-MFOD, subject to site plan review pursuant to Section 10.6, provided however that site plan review for Multi-Family cannot be denied.

9.7.4 Dimensional Standards. The table of dimensions below determines the dimensional requirements for land within the 3A-MFOD.

**TABLE OF DIMENSIONAL STANDARDS:
3A MULTI-FAMILY OVERLAY DISTRICT**

See Footnotes to Table of Dimensional Standards for clarifying information.

Minimum Lot Size (feet)	80,000
Minimum Lot Frontage (feet)	175
Minimum Lot width and depth (feet) (for Dwellings, see also Sections 4.2.2, 4.2.6 and 4.3)	100 at Building
Maximum Building Height (feet)	35
Maximum Number of Stories	3.0
Maximum Building Coverage of Lot (%)	20
Minimum Front Yard (feet) (See also Section 4.2.4)	25/50 ₁
Minimum Side Yard and Rear Yard (feet)	15
Maximum Floor Area Ratio (FAR)	0.45
Maximum Building Footprint (feet)	8,000 ₂

Footnotes to Table of Dimensional Standards:

1. Twenty-five (25) feet from the Street line, or fifty (50) feet from the Street center line, whichever is greater
2. As defined in Section 9.8.2. Applies to any single Building. Multiple Buildings on one lot are permitted.

9.7.5 Design and Building Standards.

1. *Roof Form.* All Buildings shall have pitched roofs, or the appearance of pitched roofs, with a steepness no less than 9:12 and not greater than 14:12.
2. *Permitted Building Materials.* Building materials must comply with the requirements of Section 9.8.6.4 of the Zoning By-law.

9.7.6 Severability. If any provision of Section 9.7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9.7 shall not be affected but shall remain in full force. The invalidity of any provision of Section 9.7 shall not affect the validity of the remainder of Hamilton's Zoning By-law.

APPENDIX B
ZONING BYLAW AND ZONING MAP AMENDMENTS

Unless specifically indicated below, additions are underlined, deletions are ~~struck through~~, and explanatory and/or clarifying information for the reader that is not part of the proposed amendment itself and will not be included in the Zoning Bylaw is shown *italicized* and within borders.

2.1 CLASSES OF DISTRICTS. The Town of Hamilton is hereby divided into the following districts:

Residence District	R-1A
Residence District	R-1B
Residence-Agricultural District	RA
Business District	B
<u>Depot Square</u>	<u>TC-DS</u>
Bay Road Mixed-Use	TC-BRMU
Willow Street Mixed-Use	TC-WSMU
Downtown Residential	TC-DR
<u>Bay Road Civic</u>	<u>TC-BRC</u>

2.2 ZONING MAP. The Zoning Map dated December 28, 1964, filed with the Town Clerk, as amended by the Zoning Map - Conservancy District, dated February 1, 1971, and further amended May 7, 1974, May 14, 1979, May 13, 1985, November 14, 1999, ~~and~~ May 5, 2009, and June 26, 2025 ("Zoning Map") is hereby made a part of this By-law.

Map of proposed zoning district changes under Article II- Changes will be incorporated into the Zoning Map. Land within the Business District is being entirely re-zoned, and the Willow Street Overlay District is being eliminated. References to those districts will be removed from the Zoning Map.

Commented [RS1]: I recommend including the portion of the map showing the existing districts.



2.3 OVERLAY DISTRICTS. The following Overlay Districts are also established, as set forth in Section 9.0, herein.

Groundwater Protection Overlay District	GPOD
Flood Plain Overlay District	FPOD
Estate Overlay District	EOD
Willow Street Overlay District	WSOD
Commercial Overlay District	COD
3A Multi-Family Overlay District	3A-MFOD

2.5 SPLIT LOTS.

2.5.2 By District Boundary. Where a district boundary line between a residential and a business district an R-1A or R-1B District and a sub-district of the Town Center District divides any Lot existing at the time such line is adopted, the regulations for the less restricted portions of such lots shall extend no more than thirty (30) feet into the more restricted portion, provided the lot has lot frontage on a public way in the less restricted district or sub-district. For purposes of this section the Bay Road Mixed Use, Willow Street Mixed Use and Downtown Residential Districts are residential districts.

Commented [RS2]: Please confirm.

3.1 PRINCIPAL USES

TABLE OF USE REGULATIONS

Given the extensive changes to the Table of Use Regulations, the following changes are described but not shown by underlined and strikethrough text, except for a new use added to the table which is shown in underline and additional language being added to D.21 that is shown as underlined.

Delete the last Column "B" Business District from the existing Table

Indicate in the Table that new use A9 (Two-family dwelling) is not allowed ("N") in the R-1A, R-1B and RA districts

Add 2 additional columns to include Depot Square and Bay Road Civic sub-districts and designate uses allowed and prohibited in the Depot Square, Bay Road Civic, Bay Road Mixed-Use, Willow Street Mixed-Use, Downtown Residential districts as follows:

A. Residential	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
1. One Single Family Dwelling	N	Y	Y	Y	N
2. Conversion of a Single Family Dwelling existing at the time of the adoption of the ordinance (1954) into a Two Family Dwelling (see Section 3.5)	Y	Y	Y	Y	N
3. Open Space and Farmland Preservation Development (see Section	N	N	N	N	N

8.1)					
4. Senior Housing (see Section 8.2)	N	N	N	N	N
5. Long Term Care Facility	PB	PB	PB	PB	PB
6. Garage with more than 4 motor vehicle spaces subject to the requirements of Section 9.8.5 in the Town Center District	PB	Y	Y	PB	PB
7. Two or more dwelling units, second floor and above when part of a mixed-use building or development	Y	Y	Y	N	N
8. Multi-Family Dwelling	N	Y	Y	Y	N
9. Two-Family Dwelling	N	Y	Y	Y	N
B. Community Facilities	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
1. Use of land or Structures for religious purposes	Y	Y	Y	Y	N
2. Museums, libraries and parks, playgrounds, conservation areas, water supply areas and other land owned and operated for the public enjoyment or service by a public or semi-public agency	Y	Y	Y	Y	Y
3. Use of land or Structures for educational purposes on land owned or leased by the	Y	Y	Y	Y	Y

Commented [RS3]: I switched the order of 8 and 9 since multi-family will be in the first article.

Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation					
4. Hospital, Medical Clinic, cemetery, and camps of educational and charitable institutions	PB	PB	PB	N	N
5. Community or private club, not conducted for profit	PB	PB	PB	N	PB
6. Nonprofit civic or fraternal building	N	N	N	N	N
7. Child Care Center or School Aged Child Care Program	Y	Y	Y	Y	Y
8. Commercial Recreation, Outdoors	N	N	N	N	SB
9. Temporary use for amusements and recreation	SB	SB	SB	N	SB
10. Municipal Buildings or facilities	Y	PB	PB	PB	Y
11. Essential Services	Y	N	N	N	Y
C. Agricultural	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
1. On parcels five (5) acres or more, or two (2) Qualified Acres or more: agriculture, horticulture and floriculture	N	N	N	N	N

2. Gardens; riding stables; growing and storing of fruits, berries, vegetables, hay, fodder and ensilage; woodlots; forestry; and greenhouses	N	N	N	N	N
3. The raising or keeping of poultry, horses, or cows for other than the use of the occupants of the residence	N	N	N	N	N
D. Commercial	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
1. Adult Entertainment Uses	PB	N	N	N	N
2. Motor Vehicle and/or Boat Sales and/or Leasing Shop	PB	N	N	N	N
3. Business or Professional Office; bank; financial institution	Y	Y	Y	N	Y
4. Communication Towers and Telecommunication Antenna Facilities (see Section 7.2)	PB	PB	PB	PB	PB
5. Kennel	N	N	N	N	N
6. Funeral homes	PB	N	N	N	N
7. Garage with more than four automobile/truck spaces	N	N	N	N	N
8. Motor Vehicle Light Service Station	N	N	N	N	N
9. Manufacturing of products sold on the premises at retail, where	PB	N	N	N	N

no more than five operators are employed in such manufacture					
10. Rail or bus station or terminal	PB	N	N	N	N
11. Motor Vehicle Repair Shop	N	N	N	N	N
12. General Service Establishment	Y	N	N	N	N
13. Personal Service Establishment	Y	Y	Y	N	Y
14. Restaurant	Y	Y	Y	N	Y
15. Restaurant, Fast Food	PB	N	N	N	N
16. Retail Store	Y	Y	Y	N	Y
17. Veterinary Facility or Clinic	PB	PB	PB	N	PB
18. Wind Energy Facility in COD, subject to site plan approval (see Section 7.3)	N	N	N	N	N
19. Wind Energy Facility (not in COD) (see Section 7.3)	PB	PB	PB	PB	PB
20. Communications Tower and Telecommunication Antenna Facilities (see Section 7.2)	Y	Y	Y	Y	Y
21. Mixed-Use Development, subject to Site Plan Review Section 9.8.5 in the Town Center District if applicable	Y	Y	Y	N	Y

22. Drive-In or Drive-Through Establishment	N	N	N	N	N
23. For Profit Educational Facility	PB	PB	PB	N	PB
24. Marijuana Establishment	N	N	N	N	N
E. Accessory	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
1. Up to three boarders in a Single Family Dwelling	N	Y	Y	Y	N
2. Accessory Dwelling Unit (see Section 3.6 and definition)	Y	Y	Y	Y	N
3. Large Accessory Dwelling Unit (see Section 11.0)	PB	PB	PB	PB	PB
4. Customary home occupation conducted in a Dwelling or Building accessory thereto by a person residing on the premises (see Section 3.3)	Y	Y	Y	Y	N
5. Accessory Uses or Building on the same Lot with and customarily incidental to a permitted main use on the same premises	Y	Y	Y	Y	Y
6. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are both: (a) accessory to activities permitted as a matter of right, and (b) necessary in connection	PB	PB	PB	PB	PB

with scientific research or scientific development or related production (see Section 3.2.1.2)					
7. Parking area or garage for use of employees, customers or visitors	Y	Y	Y	N	Y
8. Level Two Electric Charging Station	Y	Y	Y	Y	Y
9. Large Family Child Care Home	PB	PB	ZBA	PB	PB
10. Small Family Child Care Home	Y	Y	Y	Y	Y
11. Adult Social Day Care	PB	PB	PB	PB	PB
12. Marijuana Establishment	N	N	N	N	N

3.2 ACCESSORY USES.

3.2.2 Accessory Uses and Structures in the ~~Residence Districts R1-A, R-1B, RA Districts~~ and Downtown Residential sub-district of the Town Center District. The following provisions shall apply to Accessory Uses and Structures in the Residence ~~R1-A, R1-B, RA~~, Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential Districts:

3.2.3 Accessory Uses in the ~~Business, Depot Square, Willow Street Mixed-Use, and Bay Road Mixed-Use and Bay Road Civic sub-districts of the Town Center District.~~ In the ~~Business-Depot Square, Willow Street Mixed-Use, and Bay Road Mixed-Use and Bay Road Civic sub-districts~~ any use permitted as a Principal Use is also permitted as an Accessory Use provided such use is customarily incidental to the main or principal building or use of the land.

Commented [RS4]: This needs to be clarified. The title references just the Downtown District and the Body references the 3 districts? The next section references all but the downtown district? Also you kept "Residence" in the text but not the title?

Commented [RS5]: See my comments on Appendix A and review and confirm this.

4.1 GENERAL REGULATIONS.

4.1.2 Table of Dimensional Regulations. The Table of Dimensional Regulations is hereby declared to be a part of this By-law.

TABLE OF DIMENSIONAL REGULATIONS¹⁷

	R-1A	R-1B	RA	B
Minimum Lot Area per Dwelling Unit (sq. ft.)	20,000	40,000	80,000	ZBA ₁
Minimum Lot Frontage (ft.)	125	175	175	ZBA ₂
Minimum Lot width and depth (ft.) (for Dwellings, see also Sections 4.2.2, 4.2.6 and 4.3)	100 at building	100 at building	100 at building	ZBA ₃
Maximum Building Height (ft.)	35	35	35	35
Maximum number of Stories	3	3	3	3
Maximum Building coverage of Lot (%)	25	25	25	75 ₄
Minimum Front Yard (ft.) (See also Section 4.2.4)	25/50 ₅₂	25/50 ₅₂	25/50 ₅₂	25/50 ₅
Minimum Side Yard and Rear Yard (ft.)	15	15	15	ZBA ₆

1. Renumbered from #7 Dimensional Requirements for the Town Center Sub-District are found in Section 9.8 of the Zoning By-law.
2. Renumbered from #5 Twenty-five (25) feet from the Street line, or fifty (50) feet from the Street center line, whichever is greater.
 1. For each Dwelling Unit, minimum lot area is twenty thousand (20,000) square feet or as determined by the SPGA. For other uses, to be determined during site plan review.
 2. For a Building that contains a Dwelling Unit, 125 feet. For all other uses, to be determined during site plan review.
 3. To be determined during site plan review.

4. ~~Or as determined during site plan review.~~

5. ~~Text moved to #2.~~

6. ~~For a Dwelling Unit, 15 feet. For all other uses, to be determined during site plan review.~~

7. ~~Text moved to #1.~~

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

Commented [R56]: See my other comments on non-conformities. This may need revision.

5.1 APPLICABILITY. This By-law shall not apply to Structures or uses lawfully in existence or lawfully begun, or to a Building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this By-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and Structures may continue, provided that no modification of the use or Structure is accomplished, unless authorized hereinafter. This Section, with the exception of Subsection 5.1, shall not apply to Structures or uses in the Town Center Sub-Districts which are regulated under Section 9.8.1.4 of the By-law.

6.1 OFF-STREET PARKING AND LOADING AREAS.

6.1.3 No Reduction. Required off-street parking and loading spaces shall not hereafter be reduced, unless approved by the Planning Board pursuant to Section 6.1.6, nor any loading space counted as or substituted for a parking space.

6.1.6 Shared Parking. No part of an off-street parking or loading space required for any Building or use shall be included as a part of an off-street parking area required for another Building or use unless a determination is made by the Board of Appeals to the effect that the period of usage of such structure or uses will not be simultaneous. In the Town Center District, shared parking may be permitted by the Planning Board for a mix of uses on a single site or between sites during the Site Plan Review process, if the applicant can demonstrate that shared spaces will adequately meet parking demands because uses have varying peak parking demands, will reduce excess parking, and if the Planning Board determines shared parking will serve as a benefit to the Town Center. The minimum number of parking spaces for a Mixed-Use Development or between sites where shared parking is proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other professionally accepted procedures.

6.1.9 Site Plan. Parking areas and loading areas in the shall be shown on a site plan, as provided in Section 10.6.

Commented [R57]: Confirming no change?

6.3 SIGNS.

6.3.2 ~~Residence Districts R-1A, R-1B and RA Districts, and Downtown Residential Sub-District.~~

Commented [R58]: See my prior comment about making this change.

6.3.3 ~~Business District, Depot Square, Bay Road Civic, Bay Road Mixed-Use and Willow Street Mixed-Use sub-districts of the Town Center District.~~

6.3.4 Standards

8. A sign in the ~~Business District~~ Depot Square, Bay Road Civic, Bay Road Mixed-Use and Willow Street Mixed-Use sub-districts of the Town Center District shall not exceed a total area of (6) square feet.

8.2 SENIOR HOUSING.

8.2.2 Eligible Locations. A Special Permit may be granted for Senior Housing on any lot(s) in the R-1A, R-1B, or R-A, ~~or B,~~

8.2.7 Permitted Uses. A Senior Housing development may include the following uses:

~~12. In the Business District a mixture of residential and business uses.~~

8.2.9 Base Senior Housing Density. The Base Density per Developable Acre for a Senior Housing Special Permit shall be: ~~four (4) Dwelling units in the Business District;~~ three (3) Dwelling units in the ~~R-1A~~ R-1A District, two (2) Dwelling units in the ~~R-1B~~ R-1B District, and one (1) Dwelling unit in the RA District.

	A	B	C	D	E	F	G	H	I	J
			Incentives to Increase Base Senior Housing Density for:							
			Mix of Smaller Units (50 % units under 1300 sq. ft.)	On or Off Site Construction of Inclusionary Housing Obligation (Affordable Housing)	Smart Growth, per Comm. of Mass. Criteria (PB Rules & Regs)	Additional 25% of Property as Open Space	Voluntary Cap on Appreciation of Units	Subtotal of Base Senior Housing Density Incentives (C+D+E+F+G)	Incremental Density per Developable Acre Rewardable by PB for Trails, Fields, Environmental, energy, water conservation, building green, & other public benefits	Maximum Density per Dev. Acre
1	B	4	25%	25%	25%	N/A	25%	100%	1.0	6.00

1	R-1A	3	25%	25%	25%	25%	25%	125%	1.0	4.00
2	R-1B	2	25%	25%	25%	25%	25%	125%	1.0	4.00
3	RA	1	25%	25%	25%	50%	25%	150%	2.0	4.00

NOTES ON HOW TO READ THE MATRIX:

Column I: Encourages other initiatives which provide a public benefit to the Town such as, but not limited to, preservation and enhancement of trails; creation of playing fields; environmental, energy, water conservation, green building design, and other public benefits. For one (1) or a combination of these initiatives, an applicant may earn one (1) additional Dwelling Unit per Developable Acre in the Business, ~~R-1A-R1-A~~, and ~~R-1B-R1-B~~ Districts, and up to two (2) additional Dwelling Units per Developable Acre in the RA District.

8.2.11 Minimum Distance between Projects.

In order to mitigate the impact of multiple developments on surrounding neighborhoods, a proposed project must be located at least the distance established in the Minimum Distance Between Projects Table below from any other existing or approved Senior Housing project, any existing or approved project including multi-unit residential buildings under G.L. c. 40B, or any existing or approved project including Multi-Family residential buildings under any other provision or By-law. Excluded from this calculation and this Section are any existing Multi-Family projects approved prior to January 1, 2003, Multi-Family Dwellings or Mixed-Use Developments in the Town Center District, and apartments under Sections 3.4, 3.6 or 3.7.

~~4. Senior Housing proposals in the Business District shall be exempt from the provisions of this Section and developments wholly within the Business District shall not be considered as existing or approved projects for purposes of establishing required project separation in any other district.~~

8.2.13 General Requirements. The following requirements shall apply.

3. Location of Wastewater Treatment. All wastewater shall be treated and discharged on-site. Off-site wastewater treatment is not allowed.

8.2.15 Dimensional Standards. The following dimensional and other standards shall supersede all dimensional standards in the underlying zoning district and shall be applied to any Senior Housing development:

TABLE OF DIMENSIONAL REQUIREMENTS

	A	B	C	D	E	F	G	H	I
	Zoning District	Underlying Zoning District Requirement (s.f.)	Minimum Parcel Size (sq.ft.) to be eligible for development	Minimum Parcel Frontage Required (feet) to be eligible for development	Front Setback (feet) from perimeter property line	Side & Rear Setbacks (feet) from perimeter property line	Vegetated Buffer (feet) around perimeter of parcel	Minimum Open Space Required of total acreage	Maximum Lot Coverage of entire parcel
1	Bus. District		none	site specific	0	01	01	0	site specific
2	R-1A	20,000	80,000	125	25	252	20	0	25%
3	R-1B	40,000	80,000	175	25	252	20	15%	25%
4	RA	80,000	80,000	175	50	252	20	25%	25%

9.5 WILLOW STREET OVERLAY Reserved (*Willow Street Overlay District deleted in June 2025*)

10.6 SITE PLAN REVIEW

10.6.2 Projects Requiring Approval. No building permit shall be applied for or issued for any construction or alteration subject to this Section, as specified below, until a site plan has been approved or conditionally approved by the Planning Board as set forth herein. Except as exempted in the By-law, site plan review shall be required for the following construction, alterations, and uses:

1. Any new construction, or alteration, or expansion of a commercial, industrial, institutional or multi-family residential use, ~~or conversion to a business, office, industrial, institutional, or multi-family residence Building or Structure in any district;~~
2. Any alteration or extension of a nonconforming commercial, industrial or institutional structure in a Residential zone the R-1A, R-1B, RA Districts and in the Downtown Residential Sub-district of the Town Center;

Commented [RS9]: This appears to be the old language. In my opinion, you need to use the adopted at the most recent Town Meeting. Once that is done, I can address how the site plan changes will be handled between the two articles.

3. A change of use of a site or structure from one permitted use category to another, including but not limited to the conversion of a single-family or two-family dwelling to a multi-family residential dwelling, commercial use, or mixed-use development.

~~34. Parking lots over five (5) spaces serving any commercial, industrial, institutional, agricultural, or multi-family residential use. of the above-listed types of Buildings, schools, hospitals, nursing homes, long term care facility, life care facilities, children's camps, campgrounds, churches, multi-family structures for more than two (2) Families, government buildings and structures, farm stands, and Buildings in commercial, and/or office use;~~

4. Industrial and scientific research use under Section 3.2;

5. Stables providing boarding and/or services for more than six (6) horses other than those owned by the residents of the Lot on which the stable is located;

6. Greenhouses for commercial production of plants or produce;

7. Interior alterations which increase the commercial, industrial, institutional or multi-family floor area within an existing Building, and/or which change the number of separately leasable or saleable spaces within an existing Building; and

8. Wind Energy Facilities in the Commercial Overlay District.

10.6.4 Exemptions from Site Plan Review. The following activities shall not require site plan review or abbreviated site plan review:

1. Interior alterations unless the alterations increase the floor area within the building devoted to any of the uses listed in Section 10.6.2 and/or change the number of separately leasable or saleable spaces within the Building. Examples of exempt interior alterations are: paneling, shelving, partitions other than those creating new commercial units, counters, flooring and general interior decoration;

2. Repairs, repainting, residing, reroofing and window replacement unless the activity also increases floor area;

3. Replacement of parts of a partially damaged Building that would normally require site plan review with generally identical portions. Total replacement of such a destroyed Building shall require site plan review;

4. Demolition of a Building or Structure;

5. Change of tenant of commercial or mixed-use building, unless there is also provided that a change of the use category is not proposed and/or that no new construction triggering site plan review is proposed;

6. Customary home occupations;

7. Townhouse or Multifamily housing developed under Sections 8.1 (OSFPD) or 8.2 (Senior Housing);
8. Uses permitted by special permit within the Commercial Overlay District; and
9. Entries B.1, B.3, and B.7 in the Table of Uses shall require site plan review under Section 10.7.

11.0 DEFINITIONS

Floor Area Ratio (FAR): The ratio of the total Gross Floor Area of all buildings on a lot to the total lot area. For the purposes of calculating FAR, basements, cellars, attics, garages and interior parking spaces shall be excluded from the GFA. Half-stories that meet the criteria listed in 9.8.2.2.2 (j), Half Story, shall be counted as one half of the GFA of the floor below.

Dwelling, Three-family: A building containing three dwelling units, each of which has direct access to the outside or to a common hall that leads to the outside.

Dwelling, Four-family: A building containing four dwelling units, each of which has direct access to the outside or to a common hall that leads to the outside.

Mixed-Use Development: Two or more uses on a single parcel as a part of a single development plan. A complementary combination of permitted residential uses and commercial land uses, occupying the same site or building as part of a single development plan.

Substantial Improvement: Substantial Improvement (*Note that this term has a separate definition when applied to the Floodplain Overlay District, see Floodplain Overlay District for that definition*): Any repair, reconstruction, rehabilitation, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure before the start of construction of the improvement. Assessed value shall mean the most recent value assigned to the structure as calculated by the Hamilton Tax Assessor.

9.8 TOWN CENTER DISTRICT.

1. *Introduction.* The Town Center District consists of 3 5 sub-districts: Depot Square, Bay Road Mixed-Use, Willow Street Mixed-Use, and Downtown Residential, and Bay Road Civic, all located in the Town Center area of Hamilton. Collectively, these sub-districts shall be referred to as the Town Center District however each sub-district contains its own use, dimensional, and associated regulations as stipulated under this section. This Section consists of seven sub-sections that follow this introduction:

3. *Applicability.*

- a. *Territorial Application.* This Section is applicable to all real property, structures, and uses located in the Depot Square, Bay Road Mixed-Use, Downtown Mixed-Use, and Downtown Residential, and Bay Road Civic sub-districts as these sub-districts are depicted on the official Town of Hamilton Official Zoning Map dated June 26, 2025.

4. *Nonconformities.*

- a. *Purpose & Intent.* The purpose of this Subsection is to regulate and limit the continued existence of uses and structures established prior to the effective date of this By-law (or any amendment subsequent thereto) that do not conform to this By-law such that all buildings, structures or land, in whole or in part, will be used or occupied in conformance with this Section.

Many nonconformities may continue, but the provisions of this Section are designed to curtail substantial investment in nonconformities and to bring about their eventual elimination and/or lessen their impact upon surrounding conforming uses to preserve the integrity of the Town Center Districts in accordance with the intent of this By-law.

- b. *Nonconforming Uses.* A nonconforming use may continue only in accordance with Section 5.1 of the By-law and the provisions of this Subsection.

- (i) *Repair and Maintenance.* Normal repair and maintenance may be performed to allow the continuation of nonconforming use.

- (ii) *Reconstruction after Catastrophe or Demolition.*

- a If a nonconforming use within a structure is voluntary demolished, the nonconforming use shall not be reestablished.
- b A nonconforming use in a structure may be re-established in case of damage, to an extent equal to or less than 50 percent of the assessed improvement value of the property on which it is located provided that the improvements comply as closely as possible to the standards of this Bylaw.
- c If a building in which a nonconforming use is damaged, to an extent greater than 50 percent of the assessed value of the portion of the building in which the nonconforming use is situated, such nonconforming use shall not be continued or re-established.

- (iii) *Modification.*

- a A nonconforming use may change to a permitted use as stipulated under the Table of Use Regulations (Section 3.0 of the Zoning By-law).

Commented [RS10]: I need to think more about this section and then we should talk before deciding how, if at all, it will be divided between the two articles.

See the other/majority appendix for specific comments on the draft language.

- b. A nonconforming use shall not otherwise be modified or expanded unless a Special Permit is granted by the Planning Board.
 - i. In addition to the Special Permit criteria included in this Bylaw, the Planning Board shall consider the following in its discretion to approve or deny a special permit:
 - a. The extent and nature of the proposed alteration.
 - b. The consistency of the proposed alteration with the spirit of the Zoning By-law.
 - c. The impact of the proposed alteration to the neighborhood when compared to the existing nonconforming use.
 - (iv) *Abandonment.* If a nonconforming use is abandoned for two years or more, the use shall not be permitted to re-establish.
- c. *Nonconforming Structures.* A nonconforming structure may continue only in accordance with Section 5.1 of the By-law and the provisions of this Subsection.
 - (i) *Repair and Maintenance.* Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.
 - (ii) *Reconstruction after Catastrophe or Demolition.*
 - a. If a nonconforming structure is voluntarily demolished, any replacement structure must be conforming to the By-law.
 - b. If a nonconforming structure is damaged to an extent greater than 50 percent of its assessed value for tax purposes, it may be rebuilt only in conformance with the standards of this ordinance.
 - c. If a nonconforming structure is damaged to an extent equal to or less than 50 percent of its assessed value for tax purposes, then the structure may be rebuilt in accordance with the following standards:
 - i. A building permit for reconstruction must be secured no later than one-year from the date of destruction.
 - ii. A nonconforming structure shall not be rebuilt in a manner which increases its nonconformity.
 - (iii) *Modifications/Alterations.*
 - a. A primary or accessory nonconforming structure shall not be enlarged or altered in a way which increases its nonconformity or creates a new nonconformity.
 - b. Modifications to a nonconforming structure which constitute a Substantial Improvement shall not be permitted unless the structure

is made conforming with the requirements of the By-law or, if non-conformities remain, by issuance of Special Permit by the Planning Board.

- i. In addition to the Special Permit criteria included in this Bylaw, the Planning Board shall consider the following in its discretion to approve or deny a special permit:
 - a. The extent and nature of the proposed alteration.
 - b. The consistency of the proposed alteration with the spirit of the Zoning By-law.
 - c. The impact of the proposed alteration to the neighborhood when compared to the existing nonconforming use.
- c. Should a nonconforming structure be moved for any distance on the lot upon which it is located, it shall be moved to make the structure conforming to setbacks.
- d. No nonconforming accessory structure shall continue after the principal structure is terminated by abandonment, damage, or destruction unless such accessory structure is made to conform to the standards for a principal structure.
- d. *Nonconforming Site Characteristics.* Nonconforming site characteristics governed under Section 9.8.6 Site Standards, including parking, driveways, landscaping, lighting, and screening, shall not be altered such that they are made more non-conforming with the standards and requirements of this By-law.

Amend Section 9.8.3 to delete (reserved) and add 1. Depot Square and 2. Bay Road Civic as follows:

9.8.3. Town Center Sub-Districts.

- 1. ~~(reserved)~~ Depot Square.



Figure 8. Depot Square Sub-District Vision Illustration

- a. *Description.* The Depot Square sub-district is characterized by two distinct conditions. On Railroad Avenue, buildings have small footprints and are up to 2.5 stories in height. East of the rail corridor, there is a large automobile-oriented shopping center. The area along Railroad Ave has the character of a small and historic town center; most buildings sit close together and near the sidewalk, while other buildings maintain some space between one another and include parking lots. The shopping center features one large, L-shaped, a1.5-story building with a large parking area between the building and the street and rail corridor. The sub-district is primarily commercial, with some mixed-use structures , of a residential character near the edges of the sub-district. Most buildings west of the rail corridor were designed to accommodate commercial uses with form consistent with the historic residential buildings nearby.

- b. *Purpose and Intent.*

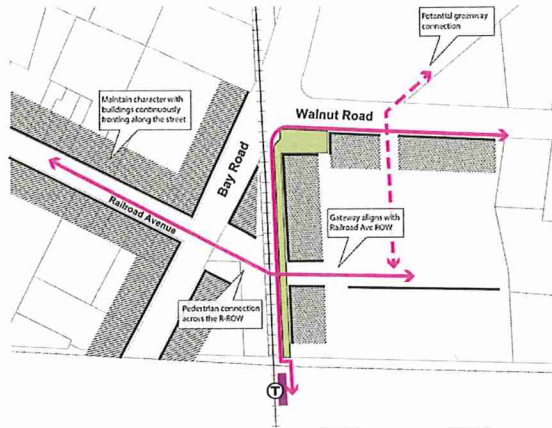


Figure 9. Important Depot Square Visual and Pedestrian Connections

- (i) To foster a mixed-use and vibrant town center and preserve the existing small-scale commercial character along Railroad Avenue.
- (ii) To enhance a continuously built front along main public thoroughfare frontages in the sub-district.
- (iii) To extend the small-scale commercial character pattern on Railroad Avenue to future development in other larger parcels of the sub-district.
- (iv) To preserve and extend the visual and pedestrian corridor along Railroad Avenue across the MBTA tracks.
- (v) To preserve existing open space/green space areas at critical intersections.
- (vi) To promote walkability and safety along all street frontages.

2. ~~(reserved)~~ Bay Road Civic.

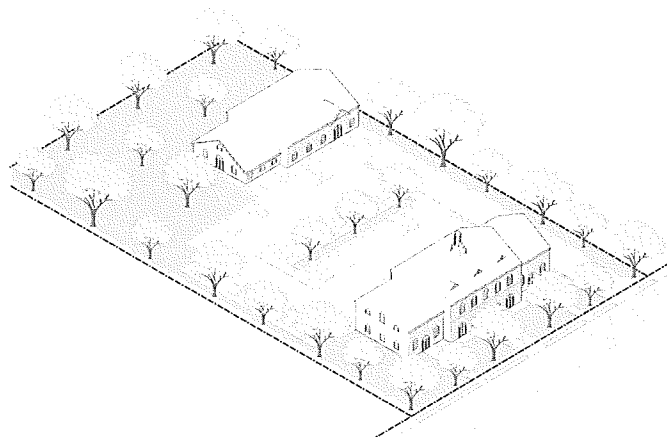


Figure 10. Bay Road Civic Sub-District Vision Illustration

- a. *Description.* The Bay Road Civic sub-district is owned by the Town and hosts municipal functions, including the Public Safety Complex, the Council on Aging, and the Building and Health Departments. The current arrangement of buildings and parking do not align with the traditional frontages of the Bay Road corridor. The site occupies an important “gateway” moment for the Downtown, where the alignment of Bay Road straightens out and the historic pattern of large structures set back behind generous lawns begins.
- b. *Purpose and Intent.* The purpose of this sub-district is to guide the placement and scale of potential future buildings on this site that can improve and restore the consistency of Bay Road frontages. The regulations are crafted to ensure that the desirable patterns of Bay Road are enhanced while allowing the flexibility that may be required for additional municipal uses.

9.8.4. Dimensional Standards.

Amend the Table of Dimensional Standards: Town Center District to add columns for the Depot Square and Bay Road Civic districts so the table reads as follows and to add the underlined language referencing and containing footnotes related to the Depot Square sub-district.

TABLE OF SITE DIMENSIONAL STANDARDS: TOWN CENTER DISTRICT
See Footnotes to Table for additional requirements and/or clarifying information.

	Lot Dimensions	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Lot Size (min)	1,000 square-feet	5,000 square-feet	3,000 square-feet	3,000 square-feet	5,000 square-feet
A	Lot Width (min)	20 feet	40 feet	40 feet	30 feet	40 feet
	Coverage	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Open Space (min)	0%	40%	40%	40%	40%
	Building Yards Setbacks	Depot Square ₂	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
B	Front Yard Setback on Streets (minimum / maximum) ₁	0 / 10 feet	20 / 35 feet	10 / 20 feet	10 / 20 feet	20 / 35 feet
C	Side Yard Setback (minimum)	0 feet	5 feet	5 feet	10 feet	10 feet
D	Rear Yard Setback (minimum)	0 feet	15 feet	15 feet	15 feet	10 feet
	Parking Setbacks	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
E	Front Setback (minimum)	10 feet	Aligned with, or set back further than, Building Frontage			
F	Side Setback (minimum)	0 feet	5 feet	5 feet	5 feet	5 feet
G	Rear Setback (minimum)	0 feet	5 feet	5 feet	5 feet	5 feet
	Parking Requirements	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic

	Parking Spaces (minimum)	Per Section 6.1 or by Special Permit
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1. Includes frontage along the western edge of the rail corridor within the Depot Square sub-district. Porches less than 8 (eight) feet in depth and bay windows less than 3 (three) feet in depth may protrude into the Front Yard in all sub-districts except Depot Square.
2. Side and Rear Yards in the Depot Square sub-district that directly abut a different zoning district or sub-district shall conform to the minimum setbacks required in the abutting district or sub-district.

2. Building Dimensional Standards.

Amend the Table of Building Dimensional Standards: Town Center District to add columns for the Depot Square and Bay Road Civic districts so the table reads as follows and in footnote 1, delete "reserved" and add the underlined language.

TABLE OF BUILDING DIMENSIONAL STANDARDS: TOWN CENTER DISTRICT
See Footnotes to Table for additional requirements and/or clarifying information.

	Massing	Depot Square ¹	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
A	Building Footprint (maximum per Building)	5,000 square-feet	3,000 square-feet	5,000 square-feet	3,000 square-feet	N/A
B	Facade Buildout (minimum) ²	60%	35%	35%	35%	35%
C	Height (maximum)	35 feet / 2.5 stories	35 feet / 2.5 stories	35 feet / 2.5 stories for the first 60 feet from the front lot line, 45 feet / 3.5 stories elsewhere	35 feet / 2.5 stories	35 feet / 2.5 stories
	Number of Stories Minimum	N/A	2	2	2	2
D	Ground Floor Height (minimum / maximum)	13 / 15 feet	13 / 15 feet	13 / 15 feet	N/A	N/A
	Floor Area Ratio (maximum)	N/A	0.39, or up to 0.45 by Special Permit only	0.42, or up to 0.45 by Special Permit only	0.39, or up to 0.45 by Special Permit only	N/A
E	Facade Length without Offset (maximum)	70 feet	70 feet	70 feet	70 feet	70 feet
F	Building Separation (minimum)	10 feet	10 feet	10 feet	20 feet	0 feet
	Roof	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
	Allowed Roof Type ³	Gable, hip, gambrel, mansard, shed, flat	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed	Gable, hip, gambrel, mansard, shed, flat

Windows	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
Ground Story Fenestration (minimum)	50%	N/A	N/A	N/A	20%
Doors	Depot Square	Bay Road Mixed-Use	Willow Street Mixed-Use	Downtown Residential	Bay Road Civic
Street Facing Entry Feature	Required	Required	Required	Required	Required

Footnotes to Table of Building Dimensional Standards:

1. (reserved) Depot Square Additional Dimensional Requirements. The following requirements and interpretations apply to the Depot Square sub-district only:
 - a. New Structures are only permitted within 80 feet from a property line bounded by a public way, including the western edge of the rail corridor which shall be considered a Front Yard. This 80 (eighty) foot measurement shall be measured perpendicular to the frontage. Structures extending beyond 80 feet from the front property line, and/or individual structures with a Building Footprint greater than 5,000 square-feet, shall be permitted only by Special Permit.
 - b. Lots in the Depot Square sub-district with more than one frontage and a Lot area greater than 35,000 square-feet shall provide a minimum of 3,500 square-feet of open space at the intersection of the 2 (two) frontages.
 - c. Facade Buildout: On Lots where open space is required at an intersection, the length of the required open space along any frontage may be subtracted from each frontage length for the purpose of calculating minimum Facade Buildout. On lots greater than 45,000 square-feet and containing more than one frontage, Facade Buildout requirements shall apply only to the frontage where new structure(s) are proposed.
 - d. Total Gross Floor Area of greater than 12,500 square-feet on a Lot is not permitted by right. Additional Gross Floor Area shall be permitted only through a Special Permit, granted by the appropriate SPGA applicable to the proposed uses.
2. For Lots with more than one frontage, the minimum Facade Buildout requirements shall apply to each frontage individually, and not cumulatively.
3. Roof forms may be combined, so long as minimum roof steepness is maintained.

9.8.5. Use Provisions.

1. The allowable uses and accessory uses in the Town Center District are contained in Section 3.0, Use Regulations. The following clarifications and exceptions are made with respect to the Town Center District sub-districts only:
 - a. Use A6, a Garage with more than 4 motor vehicle spaces, is permitted in the Bay Road Mixed-Use, and Willow Street Mixed-Use sub-districts provided it is:
 - (i) Accessory to a Multi-Family Dwelling or Mixed-Use Development, and;
 - (ii) Located below grade or at grade beneath the primary Building massing and not within a stand-alone structure.
 - b. Use D21, Mixed-Use Development, is allowed in the Depot Square sub-district provided that all of the following criteria are met:
 - (i) The ground floor area associated with the residential use are limited to entry areas, lobbies, mailrooms, amenities and vertical circulation elements such as stairs and elevators.
 - (ii) The residential ground floor uses occupy a minimum of 10% of the primary Building frontage, or 10 (ten) feet., whichever is greater, and
 - (iii) The ground floor non-residential uses are a minimum of 20 (twenty) feet. deep.

9.8.7 Administration.

2. Special Permit. Proposed uses in the Town Center District that are allowed by Special Permit shall be subject to review by the appropriate SPGA as indicated in Section 3.1, Table of Use Regulations.

2025 July 14 Special Town Meeting Calendar

[illegible]