

SECTION 5. GENERAL REGULATIONS

5.1 Off-Street Parking and Loading

5.1.1 Number of Spaces

- a) Off-street parking must be provided to service all increases in parking demand resulting from new construction, additions, or change of use to one requiring more parking, without counting any existing spaces needed to meet requirements for the existing building and use. The number of spaces indicated in Section 5.1.2, Schedule of Requirements, shall be the basis for determining adequacy of provisions. Any existing spaces removed shall be replaced in kind unless they are either in excess of the number required or removed at the request of the Town. Parking spaces also serving as loading areas shall not be credited.
- b) The number of spaces may be reduced to less than that stipulated below if, in acting on Design and Site Plan Review, the Planning Board determines that a smaller number would be adequate for all parking needs because of such special circumstances as:
 1. shared parking for uses having peak parking demands at different times,
 2. unusual age or other characteristics of site users, or
 3. user sponsored demand reduction devices such as carpooling.
- c) In the Local Business III Districts, legal on-street parking may be credited towards meeting these requirements if located between the premises side lot lines on the same side of the street.

5.1.2 Schedule of Requirements

- a) Dwellings: two parking spaces for each dwelling unit therein, except one parking space for each dwelling unit having fewer than two bedrooms.
- b) Places of public assembly: one parking space for each three persons capacity based on the Massachusetts State Building Code.
- c) Hotels, motels, room and board, other commercial accommodations: one parking space for each guest unit, plus one parking space for each eight units or fraction thereof.
- d) Restaurant: one parking space per 2 persons seating capacity. For purposes of calculating parking requirements, up to 20 outdoor seasonal seats shall not count in total seating capacity.

Note: §5.1.2 d) was amended by Article 25 at the 2010 Annual Town Meeting.

- e) Commercial recreation: one parking space per two persons participant capacity, plus one space per three persons spectator capacity.
- f) Auto service station: three parking spaces plus three parking spaces per service bay.

- g) Other service establishments, retail businesses, and offices: one parking space per 250 square feet of ground floor gross floor area (350 square feet in the LB-I District) plus one space per 400 square feet gross floor area on other floors (600 square feet in the LB-I District), but not fewer than three spaces per separate enterprise. Excluded from these calculations shall be floor area used for parking or loading.
- h) Wholesale and industrial establishments: one parking space per 1.5 employees on the largest shift, but capable of expansion to not less than one space per 400 square feet gross floor area.
- i) Other uses: a number of spaces to be determined by the Building Inspector (or the Planning Board in cases referred to it for Design and Site Plan Review), based upon evidence from similar uses under similar circumstances.
- j) Mixed uses: requirements for each use are added, unless it is determined that a smaller number is adequate because of staggered hours.

5.1.3 Parking and Loading Area Location and Design

a) Non-residential.

- Required parking for nonresidential uses shall be either on the same premises as the activity it serves or on a separate parcel if the parcel is located within 400 feet of the building entrance to be served and is in a zoning district permitting or allowing by Special Permit the use it serves.
- Parking facilities for six or more cars serving nonresidential uses shall have no elements, other than driveways approximately perpendicular to the street and parking area plantings, located in the area between the street line and the front setback line.

Note: §5.1.3 a) was amended by Article 18 at the 2005 Annual Town Meeting.

b) Residential.

- 1) In Single Residence Districts, no parking shall be permitted within a required front yard between the side lines of the dwelling extended to the street, except on a driveway leading to, and no wider than, an attached garage, or on Special Permit from the Board of Appeals, to be granted only upon determination by the Board that:
 - i. Feasible alternatives for providing necessary parking do not exist,
 - ii. Effective use of plantings, grading, and location are employed to minimize visual impacts, and
 - iii. On-site drainage is adequately provided for.
- 2) In General Residence Districts, the following provisions shall apply to attached garages including those constructed below the ground floor and driveways and parking spaces that are created within a required front yard between the side lines of the dwelling extended to the street,

- A. An attached single car garage opening and associated driveway leading to, and no wider than the garage, is permitted provided that:
 - 1. The paved area (or other driveway surface material) does not exceed 25% of the front yard area as defined above,
 - 2. Effective use of plantings, grading, and location are employed to minimize visual impacts,
 - 3. The maximum width of the driveway shall not exceed 12 feet,
 - 4. The slope of the driveway shall be no greater than 15% (1.8" per 12"), and
 - 5. On-site drainage is adequately provided for.

- B. Parking spaces and/or two-car garage openings or larger below the ground floor shall not be permitted except on Special Permit from the Board of Appeals, to be granted only on determination by the Board that:
 - 1. Feasible alternatives for providing necessary parking do not exist,
 - 2. Effective use of plantings, grading, and location are employed to minimize visual impacts of the paved front yard and/or garage,
 - 3. The garage does not create the appearance of an additional story, which would then give an overall appearance of the structure exceeding the 2-1/2 story limitation,
 - 4. The slope of the driveway shall be no greater than 15% (1.8" per 12"),
 - 5. The paved area is only as wide as the garage and tapers where possible,
 - 6. For buildings with more than one unit, the garages, and associated paved areas necessary to provide access to each garage, shall be separated from each other by at least 12 feet, the area between the driveways to be landscaped with trees and other plantings as provided for in Section 5.3 of these By-Laws, and
 - 7. On-site drainage is adequately provided for.

Note: §5.1.3 b) was amended by Article 18 at the 2005 Annual Town Meeting.

- c) Configuration. Dimensions of spaces and aisles shall adequately provide for clearance and movement, and designated spaces shall accommodate needs of the handicapped. The Planning Board shall adopt, and may from time to time amend, standards for such dimensions, reflecting current vehicle sizes.

Groups of not more than 30 parking spaces shall be separated by a six foot landscaped walk or divider.

- d) Construction. Off-street parking areas, loading areas, and access drives, if involving six or more parking spaces, shall be surfaced with at least two inches (2") of bituminous paving or comparable paving material unless the Planning Board approves an alternative surface which, because of only seasonal or periodic use, will adequately prevent dust, erosion, water accumulation, and unsightly conditions. Such parking areas shall be curbed and provide wheel stops where needed.
- e) Lighting. Lighting must comply with Section 5.4.3, Light and Glare.
- f) Backing. All parking areas having six or more spaces shall be so designed that no vehicle will be required to back on a public way or driveway serving as access to 50 or more parking spaces in order to enter or exit from a parking space.
- g) Egress Location.
 - 1) There shall be not more than two driveway openings onto any street from any single premises unless each driveway is separated from all other driveways serving 20 or more parking spaces, whether on or off the premises, by at least 250 feet (measured between centerlines at the street line) on arterial streets and 150 feet on other streets. No parcel of land shall be divided in a way precluding meeting this requirement, using deeded access easements across the lots being created for shared egresses if necessary.
 - 2) No driveway sideline shall be located within 20 feet of the street line of an intersecting way.
 - 3) Driveway egresses serving 20 or more parking spaces must have not less than 250 feet sight distance in each travel direction entering an arterial street and not less than 150 feet sight distance on other streets.
- h) Egress Design.
 - 1) No driveway opening shall exceed 30 feet in width at the street line unless necessity of greater width is demonstrated by the applicant.
 - 2) Openings shall be graded and drainage facilities provided where necessary to prevent stormwater from ponding or running across any sidewalk.
 - 3) All driveway openings serving 20 or more parking spaces shall be constructed with a minimum edge radius of five feet on both sides.
- i) Bicycle Racks. For premises requiring 40 or more parking spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces required or fraction thereof.
- j) Loading. Loading or unloading shall not interfere with the public use of sidewalks, streets, or parking areas.

- k) Shared Driveway. In accordance with Section 7.4, and the objectives, findings and determinations, and conditions for approval set forth below, the Planning Board, acting as the Special Permit Granting Authority (SPGA), may grant a Special Permit to allow a driveway on one lot to lead to a parking space on another lot, or to allow a driveway to straddle the lot line and provide access from one lot to a principal use on an adjoining lot on not more than two lots, when both lots are in a residential district(s) provided an easement is executed and is filed in the Registry of Deeds of Middlesex County. Where the Shared Driveway is located in a Cluster Development, pursuant to Section 6.5, for which a Special Permit with Site Plan Review is required, an additional Special Permit under this Section shall not be required.

1. Objectives

Any use of land involving the arrival, departure, or storage of motor vehicles shall be designed and operated to:

- a. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
- b. Increase the traffic-carrying capacity of streets and highways in the Town and obtain a more efficient utilization of on-street curbside parking;
- c. Reduce hazards to pedestrians upon public sidewalks;
- d. Protect adjoining lots and the general public from nuisances and hazards such as:
 - i) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles;
 - ii) A lack of visual relief from expanses of paving; and,
 - iii) Accelerated runoff of surface water from land covered by impervious materials;
- e. Maintain the character of the neighborhood and/or streetscape; and,
- f. Preserve historic walls, structures, and/or significant trees.

2. Findings and Determinations

Prior to granting a Special Permit, the SPGA shall make a finding and determination that the proposed Shared Driveway:

- a. Complies with the Special Permit criteria set forth in Section 7.4.3;
- b. Is consistent with the general purposes of this By-Law and its objectives;
- c. Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area;
- d. Does not result in the removal of mature trees or, where such trees are proposed to be removed, that the removal is mitigated through replanting or other means;

- e. Will not result in conditions that unnecessarily add to traffic congestion or the potential for traffic accidents on the site or in the surrounding area;
- f. Will not constitute a demonstrable adverse impact on the surrounding area resulting from:
 - i) Excessive noise, level of illumination, glare, dust, smoke, or vibration which is higher than levels now experienced from uses permitted in the surrounding area;
 - ii) Emission or discharge of noxious or hazardous materials or substances;
or
 - iii) Pollution of waterways or groundwater; and,
- g. Will be maintained through a maintenance agreement mutually acceptable by the subject property owners.

3. Conditions for Approval

The SPGA may impose conditions and limitations on the Special Permit for the Shared Driveway as it deems necessary to ensure that the findings and determinations that it must make under Section k) 2 above are complied with, including but not limited to:

- a. Screening or landscaping from view from adjoining lots or from a street, by planting, walls, fences or other devices;
- b. Regulating the number, design and location of access drives or other traffic features;
- c. Requiring a greater number of off-street parking spaces, and with greater setbacks, landscaping and screening than the minimum standards set forth in Section 5.3; and
- d. Such other limitation as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the Shared Driveway with the surrounding area.

Note: §5.1.3 k) was amended by Article 11 at the 2014 Annual Town Meeting.

5.2 Signs

5.2.1 Intent and Purpose

It is recognized that signs perform important functions in the community which are essential for the public safety and general welfare, such as communicating messages, providing information about goods and services available, and providing orientation. It is further recognized that because of their potential detrimental impact on the visual and perceptual environment, signs must be regulated in order to:

- a) prevent hazards to vehicular and pedestrian traffic,
- b) prevent conditions which have a blighting influence and contribute to declining property values,
- c) provide for easy recognition and legibility of all permitted signs and other uses in the immediate vicinity,
- d) preserve the amenities and visual quality of the Town and curb the deterioration of the community environment, and
- e) conserve energy.

It is the intent of this Section 5.2 to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and to encourage the most appropriate use of land.

5.2.2 Permits

No sign (other than a temporary sign in a window) shall be erected, altered or enlarged in a General or Local Business District until a permit has been issued by the Building Inspector, to be issued only for signs complying with all applicable provisions of this By-Law.

5.2.3 General Requirements

- a) Movement. No sign shall contain any visible movable or moving parts (except for the hands of a traditional analog type, i.e., non-digital clock whose face does not exceed 36 inches in diameter), any moving, flashing, or animated lights, or any automatically changing written or pictorial matter or message.
- b) Illumination. No sign shall be illuminated between the hours of 10:00 p.m. and 6:00 a.m. unless the premises on which it is located are open for business. Signs may be illuminated only by the following means:
 1. By a white, steady stationary light shielded and directed solely at the sign;
 2. By interior non-exposed lights;
 3. By exposed neon or similar tube illumination.
- c) Window Signs. Window signs shall be permitted, provided that the aggregate area of such signs does not exceed 20% of the area of the window glass. Removable signs temporarily affixed to the window or associated with a window display are permitted,

provided that the aggregate area of the window covered by the signs, including permanent signs, does not exceed 50%.

Note: §5.2.3 c) was amended by Article 24 at the 2008 Annual Town Meeting.

- d) **Temporary Signs.** Temporary signs must comply with the requirements for permanent signs, except signs for charitable and public safety purposes, which may be authorized by the Building Inspector despite noncompliance. Before a temporary sign (other than a temporary sign placed in a window) shall be erected, there shall be deposited with the Town Treasurer the sum of \$20.00 for each sign, and the Town Treasurer shall notify the Building Inspector. The deposit shall be refunded only upon the removal of the sign.
- e) **Removability.** No sign shall be painted or posted on the surface of any wall without an intermediary removable surface.
- f) **Non-accessory Signs.** The erection of non-accessory signs is not permitted.
- g) **Sign Location.** Signs attached to a roof and v-shaped signs attached to buildings are not permitted. Signs attached to a building must be either flat against the wall or perpendicular to the wall. If attached flat against the wall, the sign shall not project more than 12 inches outward or six inches upward from the wall or parapet of the building. If perpendicular to the building, the sign may not project more than five feet from the building, three feet over a public sidewalk, and shall be no less than two feet from the curb line.

The minimum vertical clearance to the underside of any sign projecting over a sidewalk or other pedestrian or vehicular passage shall be 10 feet above the surface of the sidewalk or passage.

5.2.4 District Regulations

- a) **All Districts.** In all zoning districts, the following are permitted:
 - 1. One sign displaying the street number and/or name of the occupant of the premises not exceeding 150 square inches in area. Such sign may include identification of a home occupation only if authorized on Special Permit from the Board of Appeals.
 - 2. Temporary signs pertaining to the lease, sale or initial occupancy of a lot or building provided that the aggregate area of all such signs on the premises does not exceed nine square feet.
 - 3. One bulletin or announcement board, identification sign, or entrance marker for each public entrance to the premises of a church, synagogue, school, or other permitted nonresidential institutions.
 - 4. Standing signs accessory to a church, synagogue, school, or other permitted nonresidential institution. Two such signs are permitted for each such use, plus one additional sign for each additional street where the lot fronts on more than one street, each such sign not to exceed 18 square feet in area.
 - 5. Signs at Town boundaries and within a street right-of-way, if authorized on Special Permit by the Board of Selectmen, not exceeding five square feet in sign area indicating the meetings of any Town civic organization.

b) Business Districts. In an area zoned as a Local Business or General Business District, the following are permitted in addition to signs permitted under Section 5.2.4 a).

1. Attached Signs. One sign for each exterior wall of an establishment if such wall faces a public way, private way, or contains a public entrance.
 - Wall Mounted - The area of the sign may not exceed the lesser of 10% of the wall area of such establishment or 65 square feet.
 - Projecting – The area of the sign may not exceed 12 square feet if projecting perpendicular to the wall.
 - More than one sign - The Planning Board may grant a Special Permit authorizing more than one identifying sign on an exterior wall provided that the aggregate area of such signs does not exceed the limits set forth herein.

*Note: §5.2.4 b) 1) was amended by Article 28 at the 2006 Annual Town Meeting.
§5.2.4 b) 1) was amended by Article 34 at the 1991 Annual Town Meeting.*

2. Directories. One directory of the establishments occupying a building or identification of the principal such establishment at each public entrance to the building. Such directory shall not exceed 1.5 square feet in area for each establishment occupying the building.
3. Standing Signs. The Planning Board may grant a Special Permit for the erection of a standing sign if it finds that the sign complies with the purposes of this By-Law and the following dimensional requirements:
 - In the LB I and LB III Districts the sign shall not exceed 15 square feet in area nor shall it exceed 5 feet in height above the ground.
 - In the LB II and GB Districts the sign shall not exceed 30 square feet in area nor shall it exceed 15 feet in height above the ground.

The Special Permit shall specify the size, type, and location of the sign and impose such other terms and conditions as deemed necessary to promote the purposes of this By-Law. The Special Permit may require the sign to be renewed, provided that such requirement does not exceed five years.

*Note: §5.2.4 b) 3) was amended by Article 29 at the 2009 Annual Town Meeting.
§5.2.4 b) 3) was amended by Article 6 at the 2006 Special Town Meeting.
§5.2.4 b) 3) was amended by Article 28 at the 2006 Annual Town Meeting.
§5.2.4 b) 3) was amended by Article 35 at the 1991 Annual Town Meeting.*

4. Awnings. A metal or cloth awning, whether containing advertising or not, may be 7.5 feet from the ground and may project over the sidewalk more than three feet but in no event closer than two feet to the curb line, notwithstanding any provision herein to the contrary.

5.2.5 Nonconforming Signs

Signs made nonconforming as a result of change of use on the premises shall be made to conform or be removed within 60 days of becoming nonconforming. Signs made nonconforming as a result of By-Law change shall be subject to the requirements of Section 1.5, Non-Conforming Uses and Structures.

5.3 Landscaping

5.3.1 Applicability

Street, sideline, parking area, and district boundary plantings and screening shall be provided as specified below for any new nonresidential building, or Free-Standing Wireless Telecommunications Facility, or when any new building, addition, or change of use results in a parking increase of five or more spaces, or results in any loading or exterior storage area for equipment, materials, or supplies serving a nonresidential use. In performing Design and Site Plan Review under Section 7.3, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

Note: §5.3.1 was amended by Article 29 at the 1998 Annual Town Meeting.

5.3.2 Plantings

- a) Required plantings shall include both trees and evergreen shrubs, and preferably will include trees existing on the site. To be credited towards meeting these requirements:
 - Trees must be at least 2.5 inches caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet.
 - Shrubs must be of an evergreen species common in the area, and be at least 36 inches in height at the time of building occupancy, and reach an ultimate height of at least five feet, except half those heights for street planting areas.
- b) Plantings shall be provided at the rate of at least one tree per 40 linear feet of planting area length, and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be at least three feet wide, unpaved except for access drives and walks, essentially perpendicular to the area.

5.3.3 Requirements

- a) **Street Planting Area.** Street planting is required for nonresidential premises having a front yard setback of ten feet or more. Required street planting shall be provided within ten feet of the street property line along the entire street frontage except at drives.
- b) **Sideline Planting Area.** Sideline planting is required for premises having a front yard setback of ten feet or more. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).
- c) **Parking Area Plantings.** Planting areas must comprise a minimum of 2% of the interior area of parking lots containing three or more rows of parking spaces. In such cases, a minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 3,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

- d) District Boundary Planting Area. District boundary planting is required on any premises along the full length of any nonresidential district boundary abutting or extending into a Residential District and being developed for a use not permitted or allowed on Special Permit in that District, unless abutting property is determined by the Planning Board to be unbuildable or visually separated by topographic features. Required planting shall be located within ten feet of the boundary.

5.3.4 Screening

Any parking, loading, or storage area for equipment, materials, or supplies serving a nonresidential use or a Freestanding Wireless Telecommunications Facility (including any appurtenant equipment storage building or structure), and any dumpster or similar trash receptacle shall be screened from any adjoining lot residentially used or zoned or in public use. Screening shall consist of plantings as specified in Section 5.3.2 which, unless sufficiently dense to effectively obscure vision, must be supplemented with an opaque fence or wall at least five feet high.

Note: §5.3.4 was amended by Article 30 at the 1998 Annual Town Meeting.

5.3.5 Existing Vegetation

Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of 6 inches caliper or greater (measured four feet above grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety, or identification of the premises.

5.3.6 Exceptions

Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

5.3.7 Maintenance

All plant materials required by this By-Law shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.

5.3.8 Nonconforming Landscaping and Screening

- a) Any improvement along the property boundary, including landscaping, screening, and fencing, legally erected and conforming to the requirement of this By-Law when so erected, may continue to be maintained, even though as a result of changes to this By-Law the boundary improvements no longer conform to its requirements, provided that such boundary improvements shall not be enlarged, redesigned or altered except so as to make them conform to said requirements, and further provided that any such boundary improvements which have been destroyed or damaged to such an extent that the cost of restoration would exceed 50% of the replacement value of the boundary improvements at the time of destruction or damage shall not be repaired, rebuilt or altered, except so as to make said boundary improvements conform to the requirements of this By-Law.

- b) The exemption for nonconforming landscaping and screening herein granted shall terminate with respect to any boundary improvements which:
1. shall have been abandoned, or
 2. shall not have been repaired or properly maintained for at least 60 days after notice to do so has been given by the Building Inspector.

5.4 Environmental Controls

5.4.1 Permitted Activity

No activity (except for warning devices, temporary construction or maintenance work, parades, special events, or similar special circumstances) shall be permitted in any district unless the following requirements are met. Applicants may be required to provide evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with these requirements.

5.4.2 Noise

The requirement of the Belmont Noise By-Law (§60 Article 6 of the General Bylaws) must be met.

5.4.3 Light and Glare

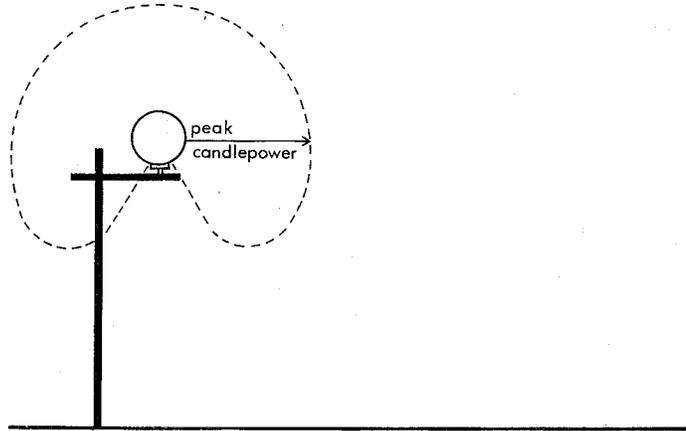
a) Lighting fixture types are defined as follows:

Type 1. No light cutoff.

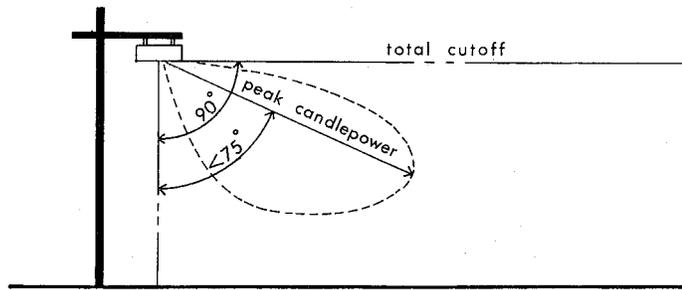
Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.

Type 3. Luminaire shielded such that total cutoff is less than 90 degrees from vertical, and no light source is in direct view of an observer 5 feet above the ground at any point off the premises.

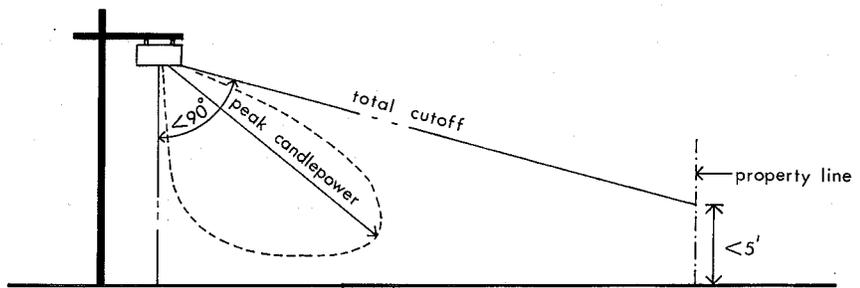
Diagram for Lighting Fixture Types



TYPE 1: NO CUTOFF LUMINAIRE



TYPE 2: 90° CUTOFF LUMINAIRE



TYPE 3: LUMINAIRE WITH LESS THAN 90° CUTOFF

- b) Lighting limitations. The following limitations shall be observed by all uses, unless granted a Special Permit under Section 5.4.8, upon determination by the SPGA that it is inherently infeasible for that use (e.g. public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill onto residential premises.

LIGHTING LIMITATIONS	DISTRICTS	
	LB, GB, PL	Other
<u>Maximum Luminaire Mounting Height (feet)</u>		
Fixture Type 1	20	10
Fixture Type 2	30	15
Fixture Type 3	40	20
<u>Maximum Off-Site Overspill (foot-candles)</u>		
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5

- c) No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either glare or flashing reflected from the sky.
- d) An exterior lighting plan is required where compliance with these requirements is not apparent, and in all applications for a Special Permit for lighting, to include indication of location, mounting height, and orientation of luminaires, and sufficient technical information on the fixture to determine its type and resulting illumination levels.

5.4.4 Air Quality

- a) Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the U.S.E.P.A. under the Clean Air Act, and any use required to apply to DEP under 310 CMR 7.00 or to EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride, or radio nuclides shall be permitted only if granted a Special Permit under Section 5.4.8.

Note: §5.4.4 a) was amended by Article 26 at the 1995 Annual Town Meeting.

- b) No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which involves the creation and/or emission of any odors shall be provided with a secondary safeguard system.

5.4.5 Hazardous Materials

Use of premises involving one or more of the following may be allowed only if granted a Special Permit under Section 5.4.8:

- a) manufacturing as the principal use of the premises, if the products manufactured are either:
 - 1. when wastes, regulated as hazardous under Massachusetts General Law, Chapter 21C.; or
 - 2. substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A;
- b) keeping of flammable fluids, solids, or gases in quantities exceeding four times that requiring licensure under 527 CMR 14.00, except for storage of fuel for consumption on the premises or by vehicles operated incidental to the principal use of the premises;
- c) any use for which licensure is required under 310 CMR 30.800 to transport, use, treat, store, or dispose of hazardous waste (but not those excluded under 310 CMR 30.801);
- d) any use whose waste generation requires the obtaining of an EPA identification number, except for small quantity generators, as defined under DEP Regulations, 310 CMR 30.351;

Note: §5.4.5 d) was amended by Article 26 at the 1995 Annual Town Meeting.

- e) discharge to surface water requiring a Permit under 314 CMR 3.00 ("NPDES Permit").

5.4.6 Vibration

No use shall be permitted which produces vibration which is discernible to the human sense of feeling (except as sound) at or beyond the boundaries of the premises for 3 minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m. Vibrations exceeding two-thirds the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11 (18) shall, except for quarry activities within the jurisdiction of that Board, be deemed to be discernible without instruments.

5.4.7 Electrical Disturbances

No electrical disturbance shall be permitted which adversely affects the operation of any equipment other than that of the creator of such disturbance.

5.4.8 Special Permits

- a) Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) for applications under Section 5.4 shall be the Board of Appeals, except that if another agency is designated under other provisions of this By-Law as SPGA for the use being applied for, that agency shall also act as SPGA under this Section.
- b) Submittals. Applicants shall submit such material, including technical analyses, as is reasonably necessary for the SPGA to make the determinations under (c) below. That may include, as germane, a lighting plan, documentation of air quality modeling, identification of any toxic or hazardous materials involved and substances to be emitted, a description of precautions, handling practices, monitoring, and recovery systems proposed, and, if appropriate, a hazard prevention and contingency response plan.
- c) Decision Criteria. Special Permits shall be granted if the SPGA finds that in light of peculiarities of location or circumstance, the proposed use will not cause harm or adverse disturbance to the environment or to other premises, will not jeopardize health or safety either on or off-premises, and that either any control or safety systems being relied upon are fail-safe or redundant, or it has been demonstrated that there would be no adverse health or safety consequences beyond the boundaries of the premises in the event of system failure, in light of on-site decay, dilution, or dispersion.