

To see if the town will vote to amend the zoning bylaw by inserting the following after section 8 and re-numbering succeeding sections consecutively or take any action thereon,

## **SECTION 9: OVERLAY DISTRICTS**

### 9.1 Ashby Village Center Zoning Overlay District

#### 9.1.1 Intent and Purpose

The vitality and diversity of the Ashby village center benefits the general health and welfare of its residents and the community generally by fulfilling existing commercial, residential, transportation, civic, cultural and employment needs. Therefore, the Town implements this bylaw and designates a zoning district as the Ashby Village Center Overlay District to encourage economic and residential growth that fits the character of the Town. The purposes of the Ashby Village Center Overlay District are to:

9.1.1.1 Build upon the historic development patterns in the existing village center in the spirit of village centers throughout the New England region in order to create attractive, walkable neighborhoods;

9.1.1.2 Encourage adaptive reuse of abandoned, vacant, or underutilized buildings or structures where appropriate;

9.1.1.3 Allow for a mix of new and existing land uses that are appropriate to both the needs of the community and the scale and visual character of surrounding neighborhoods;

9.1.1.4 Maintain the traditional design character throughout the district.

#### 9.1.2 Establishment

The Village Center Overlay District is hereby established and consists of those areas so designated and shown on the map designated as "Zoning Map, Village Center Overlay District, Town of Ashby, Massachusetts, Ashby Planning Board" on file with the Town Clerk and dated April 1, 2012.

#### 9.1.3 Definitions

9.1.3.1 **FORMULA BUSINESS:** The term "formula business" refers to a particular type of service-oriented chain establishment. It is a type of retail sales establishment, restaurant, tavern, bar, or takeout food establishment which is under common ownership or control or is a franchise, and is one of 14 or more other businesses or establishments worldwide maintaining three or more of the following

features:

9.1.3.1.1 Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings;

9.1.3.1.2 Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods of one party from those of others, on products or as part of store design;

9.1.3.1.3 Standardized color scheme used throughout the interior or exterior of the establishment; and

9.1.3.1.4 Standardized uniform including but not limited to aprons, pants, shirts, smocks or dresses, hat.

9.1.3.2 PUBLIC SPACE: In the context of an application for a Village Center Overlay District Special Permit, this term denotes open areas set aside for use by the public as part of a coordinated site development process.

9.1.3.3 WINDOW SPACE: The amount of transparent window space that occupies a building façade including standard street level windows and doorway windows.

#### 9.1.4 Authority

The Planning Board shall act as the administering authority for any Site Plan Review procedure associated with this bylaw according to Section 12.5, Site Plan Special Permits. The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in the underlying district, any use requiring a Special Permit pursuant to Section 9.1.5, and any applicant seeking an Ashby Village Center Overlay District (AVCOD) Special Permit subject to Section 9.1.10. Where standards or other requirements listed as part of this overlay district may conflict with those in the underlying district, the overlay provisions shall apply.

#### Applicability

- a. Construction of a new commercial or mixed use structure on a vacant lot.
- b. Construction of a commercial accessory structure of more than 500 square feet on a lot.
- c. Conversion of a residential property to a commercial use or mixed use.

- d. Conversion of a single-family home into a structure with 3 or more apartments or dwelling units within it or on the same lot.
- e. Any other projects requiring application for a Ashby Village Center Overlay District special permit.

#### 9.1.5 Use Provision

9.1.5.1 Permitted Uses: The following uses are allowed by-right subject to any Site Plan Review requirements listed in Section 12.5 and all applicable density and design provisions listed in this bylaw.

- 9.1.5.1.1 Single-family homes and their permitted accessory uses;
- 9.1.5.1.2 Civic uses;
- 9.1.5.1.3 General retail sales of 2,500 sq.ft. or less;
- 9.1.5.1.4 Bank, business or professional offices.

9.1.5.2 Special Permit Uses: The following uses are allowed in the Ashby Village Center Overlay District only through the granting of a Special Permit by the Planning Board pursuant to the procedures outlined in Section 12.3, Special Permits.

- 9.1.5.2.1 General retail sales in excess of 2,500 sq.ft. of floor space;
- 9.1.5.2.2 Apartments above non-residential uses (rental units);
- 9.1.5.2.3 Dwelling units above non-residential uses (ownership units);
- 9.1.5.2.4 Coffee shop or cafés;
- 9.1.5.2.5 Art galleries;
- 9.1.5.2.6 Personal services (including consumer repair services);
- 9.1.5.2.7 Restaurants and eateries
- 9.1.5.2.8 Bed and breakfast inn;
- 9.1.5.2.9 Outdoor seating associated with restaurants or cafés subject to applicable licensing requirements;
- 9.1.5.2.10 Cinema or performance theatre with a maximum of one screen or stage;
- 9.1.5.2.11 Agriculture, horticulture, floriculture, viticulture, permaculture on less than five (5) acres;
- 9.1.5.2.12 Outdoor markets subject to applicable licensing requirements;
- 9.1.5.2.13 Health or athletic club (limited to 5000 sq.ft. or less);
- 9.1.5.2.14 Mixed-uses, wherein a combination of permitted and/or special permit uses are allowed in the same building, structure, or lot;

9.1.5.3 Prohibited Uses:

- 9.1.5.3.1 Formula businesses as defined in section 9.3.1;
- 9.1.5.3.2 Sale of motor vehicles;
- 9.1.5.3.3 On-premises sale of fuel;

9.1.5.3.4 All uses not permitted by right or by special permit in this section or the underlying district.

#### 9.1.6 Dimensional Requirements

Dimensional standards not mentioned herein must meet the requirements of the underlying zoning district.

9.1.6.1 Minimum Setbacks for Residential, Non-residential and Mixed Use Buildings: forty (40) feet

9.1.6.2 Height Limitations for Non-residential and Mixed Use: Building height for mixed use or non-residential use shall not exceed thirty-five (35) feet from the sill or lowest point of egress and no building shall have more than three (3) stories.

#### 9.1.7 Landscape Requirements

Landscaping shall provide for the maximum vegetated space possible after meeting other requirements of this section. Standards are found in the Ashby Village Center Overlay District regulations.

#### 9.1.8 Parking Requirements

The base parking standards for the underlying Zoning Districts shall apply to individual uses in the Ashby Village Center Overlay District. As part of a Site Plan Approval or Special Permit process within this overlay district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking. Available innovative parking strategies include:

##### 9.1.8.1 Shared On-Site Parking

9.1.8.1.1 Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 75% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap.

9.1.8.1.2 Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to 30%.

9.1.8.2 Off-Site Parking: Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:

9.1.8.2.1 Off-site parking shall be within five hundred (500) feet of the property for which it is being requested.

9.1.8.2.2 Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Planning Board as a condition of the Special Permit. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Agent that the agreement has been extended.

#### 9.1.9 Design Standards

Design Standards for the development and redevelopment of commercial buildings:

Buildings shall be constructed in a manner consistent with the traditional historic designs existing in the district. The historic designs in the district include wood and/or brick siding, prominent corner boards, vertical windows with divided lites, embellished main entries, pitched roofs with multiple gables and brick chimneys. The design standards shall apply to those portions of the building seen from the street. The Planning Board may, following a public hearing, develop regulations further elaborating on these traditional design features. The regulations must allow for flexible design in incorporating the historic design features.

#### 9.1.10 Ashby Village Center Overlay District Special Permit

Applicants may apply for, and the Planning Board may grant, an Ashby Village Center Overlay District (AVCOD) Special Permit subject to the following provisions:

9.1.10.1 Purpose: In addition to those purposes listed in Section 9.1.1 of this bylaw, the purpose of an AVCOD Special Permit is to provide the opportunity to develop pockets of higher density, coordinated mixed use developments that include a diverse use profile and act as centers of culture, commerce, and social and community activity within the overlay district.

9.1.10.2 Mixed Uses Encouraged: Applicants for an AVCOD Special Permit are encouraged to provide for a mix of uses for both new construction and reconstruction. Uses that can be mixed in one building shall comply with the provisions of Section 9.1.5.1 Permitted Uses, and/or Section 9.1.5.2 Special Permit Uses, of this section. In general, for multi-story buildings, the Planning Board encourages non-residential uses on the ground floor and residences in the floors above.

9.1.10.3 Frontage: As part of an AVCOD Special Permit application, the Planning Board may authorize reduced frontage as low as fifty (50) feet when it is determined that the reduced frontage will not be detrimental to the

established or future character of the neighborhoods and town and subject to appropriate conditions or safeguards if deemed necessary.

9.1.10.4 Additional Design Standards: In addition to those design standards listed in Section 9.1.8 of this bylaw, applications for an AVCOD Special Permit shall also meet the following standards:

#### 9.1.10.4.1 Signs

9.1.10.4.1.1 One sign of one or two sides no larger than 30 sq. ft per side. No electric signs of any type will be permitted except those illuminated by stationary floodlight.

9.1.10.4.1.2 Directory signs may be permitted as part of a VCOD Special Permit application where several non-residential operations are accessed through a common vehicular entrance. Such signs shall not exceed twenty (20) square feet and each tenant shall be allowed a maximum of five (5) square feet to display the company or agency name.

#### 9.1.10.4.2 Site Design

9.1.10.4.2.1 Buildings shall be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities.

9.1.10.4.2.2 Buildings shall be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.

9.1.10.4.2.3 Public space shall be designed as a public gathering place. Public areas shall be located in a manner that connects buildings to each other and to public sidewalks without interruption from parking areas or automobile travel lanes to the greatest practicable extent.

9.1.10.4.2.4 Features that may be used to create open space areas acceptable to the Planning Board may include, without limitation, fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, and/or trash receptacles.

#### 9.1.10.4.3 Application Process and Requirements

9.1.10.4.3.1 Applicants for a AVCOD Special Permit shall comply with the Special Permit Procedures outlined in Section 12.3 and shall provide all applicable information for a Full Site Plan Review pursuant

to Section 12.5.

9.1.10.4.4 Decision: The Planning Board may approve an application for an AVCOD Special Permit with those conditions specified in this bylaw pursuant to the following criteria:

9.1.10.4.4.1 Proposed development is consistent with the purposes listed in Section 9.1 and Section 9.1.10.1 of this bylaw;

9.1.10.4.4.2 All applicable standards for use, parking and dimensional requirements are met;

9.1.10.4.4.3 All applicable design standards listed in Section 9.1.9 are met;

9.1.10.4.4.4 All applicable additional design standards listed in Section 9.1.10.4.1 are met;

9.1.10.4.5 Where multiple structures are proposed, the site design reflects a thoughtful arrangement of elements that will facilitate the movement of pedestrians between structures through the use of sidewalks, internal walkways, alleys or public space features as required in Section 9.1.10.4.2

#### 9.1.11 Severability

If any section or provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

#### 9.1.12 Conflict With Other Laws

All development activities within the AVCOD shall comply with all applicable laws, regulations, and standards of the town. In the event of a conflict between this bylaw and any section of the zoning bylaw the provisions of this bylaw shall control, provided that they are consistent with state and federal law.