

Article 10. To see if the Town of Athol will vote to amend the Athol Zoning Bylaws by deleting in its entirety Article III, Section 3.13 and replacing it with the following:

3.13 GROUNDWATER PROTECTION DISTRICT BYLAW

1. PURPOSE OF DISTRICT

The purpose of this Groundwater Protection District is:

- a. to promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Athol;
- b. to preserve and protect existing and potential sources of drinking water supplies;
- c. to conserve the natural resources of the Town; and
- d. to prevent temporary and permanent contamination of the environment.

2. SCOPE OF AUTHORITY

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

3. DEFINITIONS

For the purposes of this section, the following words and phrases shall have the following meanings:

Aquifer: Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Groundwater Protection District: The zoning district defined to overlay other zoning districts in the Town of Athol. The Groundwater Protection District may include specifically designated recharge areas.

Hazardous Waste: Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010 and/or MGL Chapter 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

Hazardous Material or Waste, Household Quantity of: Any or all of the following:

- a. 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and/or

- b. 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and/or
- c. a quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

Impervious Surface: Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil. This shall include non-paved surfaces that are compacted through regular use of automobiles, such as gravel driveways or dirt roads.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores or bedrock.

Publicly Owned Treatment Works (POTW): Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Recharge Areas: Areas that collect precipitation or surface water and carry to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

Toxic or Hazardous Material: Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21E, and 310 CMR 30.00, commercial fertilizers, as defined in MGL Chapter 128, Section 64, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous or toxic materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous or toxic materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

Zone I: The 400-foot protective radius required by the DEP around a public water supply well or wellfield.

Zone II: That area of an aquifer that contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well, and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

Zone III: That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

ESTABLISHMENT AND DELINEATION OF GROUNDWATER PROTECTION DISTRICT

For the purposes of this district, there is hereby established within the Town a Groundwater Protection Area encompassing a one-half mile radius around each groundwater source included in the Towns water system on an interim basis. The boundaries of this district shall be modified upon acceptance of an approved Zone II conformance with Well Head Protection requirements of the Massachusetts Drinking Water Regulations 310 CMR 22.21.

Districts would include the Zone II protection areas as shown on the overlay protection maps for the Town wells as follows:

- A. Tully Brook
Well Zone II Overlay Protection District Plan No. W-1-1999 dated
January 4, 1999
- B. South Street
Well Zone II Overlay Protection District Plan No. W-2-1999 dated
January 4, 1999

These Overlay Districts, as shown on maps available at the Town Clerk's Office and Department of Public Works Office, would preserve and protect existing and potential sources of drinking water supplies and be subject to special proposed Bylaws.

Amended at the May 1, 2000 Special Town Meeting. Approved by the Attorney General on September 12, 2000.

4. DISTRICT BOUNDARY DISPUTES

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a professional engineer or State of Massachusetts registered Land Surveyor to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the owner(s) for all or part of the cost of the investigation.

5. USE REGULATIONS

In the Groundwater Protection District the following regulations shall apply:

A. Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders or approvals required by local, State or Federal law are also obtained and noting that underground storage tanks related to these activities are not categorically permitted.

I conservation of soil, water, plants and wildlife;

- II outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- III foot, bicycle and /or horse paths and bridges;
- IV normal operation and maintenance of existing water bodies, water control, supply and conservation devices;
- V maintenance, repair and enlargement of any existing structure, subject to Section B (prohibited uses) and Section C (special permitted uses);
- VI residential development, subject to Section B (prohibited uses) and Section C (special permitted uses);
- VII farming, gardening, nursery, conservation, forestry, harvesting and grazing, subject to any applicable waste generation or materials storage requirements in Section B (prohibited uses) and Section C (special permitted uses);
- VIII construction, maintenance repair and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts and tunnels, and filtration structures.

B. Prohibited Uses

The following uses are *prohibited*:

- I landfills and open dumps as defined in 310CMR 19.006;
- II Storage of toxic or hazardous materials, as defined in Section 3 of this bylaw, in quantities greater than household use except where a Special Permit has been granted pursuant to Section C.V
- III landfills receiving only wastewater residuals and/or septage monofills;
- IV storage of sludge and septage, unless a Special Permit has been granted pursuant to Section C.VI.
- V storage of deicing chemicals unless a Special Permit has been granted pursuant to Section C.VII;
- VI storage of animal manure unless a Special Permit has been granted pursuant to Section C.VIII;
- VII earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within 5 feet of historical high groundwater, except where a Special Permit has been granted pursuant to Section C.IX
- VIII facilities that generate, treat store or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.000, except where a Special Permit is granted pursuant to Section C.X
- IX automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1;
- X treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except those allowed by Special Permit pursuant to Section C.XI.
- XII industrial and commercial uses which discharge process wastewater on site;
- XIII stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
- XIV Underground storage tanks;
- XV Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquified petroleum gas.
- XVI Boat or motor vehicle service or repair shops, animal feed lots, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;
- XVII Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals.

- XVIII Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;
- XIX Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a Special Permit has been granted pursuant to Section C.XII.

C. Uses and Activities Requiring A Special Permit

The following uses and activities are permitted only upon issuance of a Special Permit under such conditions as they may require:

- I enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
- II the application of pesticides, including herbicide, insecticides, fungicides, and rodenticides, for non-domestic or nonagricultural uses in accordance with State and Federal standards. The special permit shall be granted as such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 1200. The applicant shall be responsible for any and all testing of the water supply that the Department of Public Works – Water Division may feel is needed to monitor the supply;
- III the application of fertilizers for non-domestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation;
- IV the construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses agricultural uses or drainage improvements. Such activities shall not adversely affect water quality or quantity;
- V Storage of toxic or hazardous materials, as defined in Section 3 of this bylaw, where storage is for or incidental to:
 - (1) waste oil retention facilities required by statute, rule or regulation;
 - (2) emergency generators required by statute, rule or regulation;
 - (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
 - (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

- (1) above ground level;
- (2) on an impervious surface; and
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container.

- VI Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31
- VII Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate.
- VIII Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate. Applicants must meet those standards set by the Natural Resource Conservation Service.
- IX Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to Planning Board approval which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United State Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

- X Facilities that generate and store hazardous waste for off-site disposal, by the following,:
 - (1) very small quantity generators as defined under 310 CMR 30.00;
 - (2) household hazardous waste collection centers and events under 310 CMR 30.390;
 - (3) waste oil retention facilities required by G.L. c. 21, s.52A;
 - (4) water remediation treatment works approved under 314 CMR 5.00;
- XI The following treatment works that are subject to 314 CMR 5.00:
 - (1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - (2) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);
 - (3) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water.
 - (4) Publicly Owned Treatment Works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's *Interim Guidelines on Reclaimed Water (Revised)*.

- XII Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.
- (1) For new development in previously undisturbed areas, a system for groundwater recharge shall be provided which does not degrade groundwater quality. Such system shall comply with the treatment standards and guidelines included in the latest version of the Massachusetts Stormwater Management Policy.
 - (2) For redevelopment of areas previously disturbed, the area of impervious cover shall be decreased by at least 20%. Where site conditions prevent the decrease of impervious area, stormwater management controls shall be provided to treat a minimum of 20% of the site's impervious area that is not treated under existing conditions. Where a combination of new impervious area and stormwater management techniques are used, the combination of the new impervious area and impervious area treated by stormwater management shall be at least 20% of the original impervious area.

6. PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT

- A. Under this bylaw, the Zoning Board of Appeals shall be the authority to grant the permit. The permit shall be granted if the ZBA determines, in conjunction with the Board of Health, the Conservation Commission, the Department of Public Works and the Planning Board that the intent of this bylaw, as well as its specific criteria are met. The ZBA shall not grant a special permit under this section unless the petitioner's application materials include, in the ZBA's opinions, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section. The ZBA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.
- B. The applicant shall file five (5) copies of a site plan and attachments with the ZBA and one (1) copy to each of the following departments or agents: the Town Clerk, the Board of Health, the Conservation Commission, the Department of Public Works and the Planning Board. Upon receipt of proof that the special permit application was received by all required municipal agents, the ZBA shall provide these agents 35 days to respond in writing. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency.
- C. The ZBA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6 of this bylaw and any regulations or guidelines adopted by the ZBA. The proposed use must:
 1. in no way, during construction or thereafter, adversely affect the existing or potential quality of water that is available in the Groundwater Protection District, and
 2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
- D. The ZBA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the municipality.

- E. The site plan shall be drawn at a proper scale as determined by the ZBA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall, at a minimum, include the following information where pertinent:

a complete list of chemicals, pesticides, herbicides, fertilizers,
fuels and other potentially hazardous materials to be used or stored on the premises
in quantities greater than those associated with normal household use;

for those activities using or storing such hazardous materials, a
hazardous materials management plan shall be prepared. The plan shall include:

- a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures;
- b. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
- c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

proposed down-gradient location(s) for groundwater monitoring
well(s), should the ZBA deem the activity a potential groundwater threat.

- F. The ZBA shall hold a hearing, in conformity with the provision on MGL Chapter 40A, Section 9, within 65 days after the filing of the application and after the review by the Town Boards, Departments and Commissions.

Notices of the public hearing shall be given by publication and posting and by first-class mailings to “parties of interest” as defined in MGL Chapter 40A, Section 11. The decision of the ZBA and any extension, modification or renewal thereof shall be filed with the ZBA and Town Clerk within 90 days following the closing of the public hearing. Failure of the ZBA to act within 90 days shall be deemed as granting of the permit. However, no work shall commence until a certificate is recorded as required by said Section 11.

- G. Written notice of any violations of this bylaw shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission and Department of Public Works – Water Division. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, The Town of Athol, Building Commissioner, the Board of Health or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Athol, the Building Commissioner, the

Board of Health or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

7. SEVERABILITY

A determination that any portion of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder; or act in relation thereto.

Article 11. To see if the Town of Athol will vote to amend the Athol Zoning Bylaws by adding the following language under Article III:

3.14 Accessory Dwelling Unit Bylaw

3.14.1 Purpose and Intent: The intent of permitting accessory dwelling units is to:

1. Provide older homeowners with a means of obtaining companionship, security, services and/or a secondary source of income, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
3. Provide housing units for persons with disabilities;
4. Protect stability, property values, and the residential character of a neighborhood.

3.14.2 Permit Requirements

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit as an Interior Unit within a single-family dwelling in any residential district (RA RB, RC).
2. An Accessory Dwelling Unit as part of an Attached or Detached building may be allowed in the Residential C district through the granting of a Special Permit and provided the units shall comply with all applicable General Use and Dimensional Requirements in this Bylaw. Such units shall only be eligible to single family homes.

3.14.3 General Use and Dimensional Requirements:

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, single-family dwelling and the Zoning Board of Appeals may issue a Special Permit authorizing the installation and use of an Accessory Dwelling Unit in an Attached or Detached Building on a single-family home lot only when the following conditions are met:
 - (a) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.

- (b) Only one accessory dwelling unit may be created within a single-family house or house lot.
 - (c) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
 - (d) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.
 - (e) The gross floor area of an accessory dwelling unit (including any additions) shall not be greater than nine hundred (900) square feet.
 - (f) Once an accessory dwelling unit has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the nine hundred (900) square feet allowed by this bylaw/ordinance.
 - (g) An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two bedrooms.
 - (h) The construction of any accessory dwelling unit must be in conformity with the State Building Code, and Title V of the State Sanitary Code and all other applicable local regulations.
 - (i) Off-street parking spaces shall be available for use by the owner-occupant(s) and tenants.
 - (j) Units shall not have separate mailing addresses associated with them.
2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Zoning Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons. These deviations may be allowed through a Special Permit application.
 3. Prior to issuance of a permit, the owner(s) must supply a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences. Approval for an ADU requires that the owner must occupy one of the dwelling units.
 4. Prior to issuance of a permit, information and plans equivalent to that which would ordinarily be required by the Building Commissioner shall be submitted.
 5. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.
 6. The zoning approval and any notarized letters provided as part of the permitting process must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.

3.14.4 Use and Dimensional Requirements Specific to Accessory Dwelling Units that are within Attached or Detached Buildings

1. For existing residential lots and future residential lots approved as a Conventional Subdivision, the dimensional criteria for Accessory Buildings listed in Section 3.2.1 of the Zoning Bylaw shall apply to proposed Attached or Detached Buildings.
2. For existing or future lots approved as part of the OSRD process, Accessory Dwelling Units may only be approved as Interior Units or as part of Attached Buildings. Attached Buildings must conform to the applicable setback requirements listed in Section 3.16.7.3 of the OSRD Bylaw.

3.14.5 Administration and Enforcement

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.
2. No building shall be constructed or changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with applicable bylaws and or regulations. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this bylaw or in a violation of the conditions or terms of any Special Permit or variance granted by the Zoning Board of Appeals or its agent.
4. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
5. Construction or use according to a Building Permit or Special Permit shall conform to any subsequent amendment of this bylaw unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

Definitions to be voted separately:

Article 12. To see if the Town will voted to amend the Athol Zoning Bylaws by adding the following language under Article IV, Section 4.1 in alphabetical order:

Accessory Dwelling Unit: An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling as an Interior Unit or as part of an Attached

or Detached Building that is clearly a subordinate part of the single-family dwelling and complies with the criteria in Section 3.14.3 & 3.14.4.

Building, Attached: A building having any portion of one or more walls in contact with an adjacent building.

Interior Unit: An Accessory Dwelling Unit that is developed as part of the floor plan of a single family dwelling as it existed prior to Oct. 16, 2006. For single family units that are developed after Oct. 16, 2006, the applicable floor plan will be as it is originally permitted and shall not include any later additions thereto.

Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling; or act in relation thereto.

Article 13. To see if the Town of Athol will vote to amend the Athol Zoning Bylaws by adding the following language under Article III:

3.15 FLAG LOTS

3.15.1 Conditions for Issuance:

The Athol Planning Board may authorize Flag Lots by Special Permit (SP) in residential districts on streets in existence at the date of adoption of this Section (10/16/06), provided that the following conditions are met:

- a. That the site is an appropriate location for the proposed use and that the character of adjoining uses will not be adversely affected.
- b. The minimum lot area for each dwelling on a Flag Lot shall be five (5) acres.
- c. That safe and adequate vehicular access can be provided on said Flag Lot, without easements, from the street frontage to the principal building on the lot.
- d. That the width of the Flag Lot measured at the shortest distance between side lot lines is no less than fifty feet (50) at any point between the street and the existing or proposed building on the lot.
- e. All front, rear and side yard setbacks shall be double the minimum yard setbacks of the zone in which the lot is located. The Planning Board may waive this requirement if the applicant can demonstrate that the proposed principle structure will not be visible from any of the existing abutting residential structures.
- f. That no more than one (1) principal building shall be located on one (1) Flag Lot.
- g. That no more than two (2) Flag Lots shall be abutting.
- h. Access driveways shall be built according to the following standards:
 - (1) Width of at least twelve (12) feet, but shall be cleared to a width of at least eighteen (18) feet. The centerline of the driveway shall, to the greatest practicable extent, match the centerline for the overall cleared width, excluding those areas where passing turnouts are provided pursuant to 3.15.1.h.(4).
 - (2) Maximum grade of ten (10) percent.
 - (3) Centerline radius of at least eighty (80) feet.

- (4) Passing turnouts providing a total width of at least fifteen (15) feet along a distance of at least forty (40) feet spaced with no more than three hundred (300) feet between turnouts and with the first such passing turnout at the driveway connection to the street.
- (5) Provision for turnaround space available for use in all seasons capable of serving all vehicles including moving vans, ambulances, fire engines, and police vehicles.
- (6) Driveways shall not provide access to any other lot.

3.15.2 Procedure for Special Permits:

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Laws Chapter 40A and Section X of the Athol Zoning Bylaw; or act in relation thereto.

Article 14. To see if the Town of Athol will vote to amend the Athol Zoning Bylaws by adding the following language under Article III:

3.16 Open Space Residential Design (OSRD)

3.16.1. The purpose and intent of this bylaw are the following:

- 3.16.1.1 To allow for greater flexibility and creativity in the design of residential developments;
- 3.16.1.2 To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, vistas, and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
- 3.16.1.3 To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
- 3.16.1.4 To minimize the total amount of disturbance on the site;
- 3.16.1.5 To further the goals and policies of planning efforts endorsed by the Town of Athol including but not limited to the Open Space and Recreation Plan;
- 3.16.1.6 To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.

3.16.2 Applicability

- 3.16.2.1 Any Major Residential Development within the RC District be permitted by issuance of a Special Permit from the Planning Board for either Conventional Development or OSRD in accordance with this bylaw. Applicants for a Major Residential Development shall submit both a

conventional plan and an OSRD plan in accordance with the applicable provisions of this Bylaw.

3.16.2.2 Developments of 4 lots or smaller in the RC District may also enter the OSRD permitting process subject to the following criteria:

- (1) **Contiguous Parcels.** To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are “contiguous” for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 3.16.1.
- (2) **Land Division.** To be eligible for consideration as an OSRD, the tract shall be a subdivision or a division of land pursuant to G.L. c. 41, § 81P.

3.16.3 Pre-Application Conference

3.16.3.1 **Conference.** The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Fire Department, DPW, Building Commissioner, and any other municipal agent who may provide insight into the proposed site development. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts, at the expense of the applicant, to review the informal plans of the applicant and to facilitate submittal of a formal application for a Conventional or OSRD Special Permit.

3.16.3.2 **Contents.** Applicants choosing to request a pre-submission review should attempt to develop the maps/illustrations listed below. The applicant is strongly encouraged to submit these materials in both hard copy and electronic format where possible. This information need not be prepared by an engineer but should reasonably reflect existing conditions:

- (1) **Site Context Map.** This map shall illustrate the parcel in connection to its surrounding neighborhood. The map should show land features within 1,000 feet of the site but may be expanded to include important features beyond 1,000 feet such as drainage pathways, transit routes or other resources. Based upon existing data sources and field inspections, it shall

show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. Attached to the Site Context Map shall be a list of ownership of abutting properties. These documents enable the Planning Board to understand the site in relation to what is occurring on adjacent properties.

- (2) Existing Conditions Map. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature non-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map.
- (3) The most current available aerial photography or any other Geographic Information System (GIS) data readily available through the Commonwealth of Massachusetts or other sources.
- (4) Other Information. In addition, applicants are invited to submit any other available information otherwise required in Preliminary Plan or Definitive Plan submittals.

3.16.3.3 Site Visit. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the Special Permit. If one is requested, the Planning Board shall invite the Conservation Commission, Building Commissioner, Board of Health and other municipal agents that may provide insight into the design process.

3.16.3.4 Design Process. The design process set forth below in Section 3.16.5 should be discussed by the parties at the pre-application conference and site visit.

3.16.4 Major Residential Development/OSRD Application for Special Permit.

The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize a Conventional Development Special Permit or an OSRD Special Permit pursuant to the procedures outlined below.

3.16.4.1 Application. An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board Rules & Regulations of the Town Bylaws. Applicants for OSRD shall also file with the Planning Board six (6) copies of the Concept Plan and shall file one (1) copy with the Town Clerk. The Concept Plan shall include a Yield Plan and a Sketch Plan [see Subsections (1) and (2) of this Section], prepared by a multidisciplinary team of qualified professionals. The applicant shall also submit both the

Site Context Map and Existing Conditions Map prepared according to Section 3.16.3.2 above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

- (1) Yield Plan. The Basic Maximum Number of allowable units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information:
 - (a) subdivision name, boundaries, north point, date, and scale;
 - (b) name and address of record owner, applicant, and designer, engineer, and surveyor;
 - (c) names of all direct abutters as determined by the Assessors with 4 1/8 x 9 1/2 envelopes that have been addressed to each abutter and affixed with first class postage;
 - (d) existing and proposed lines of streets, ways, easements, and public areas within the subdivision;
 - (e) location, direction, names, and present widths of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;
 - (f) location, names, and present widths of streets bounding, approaching, or near the subdivision;
 - (g) topography of the land in a general manner, including contours at a scale required by the Board;
 - (h) proposed system of drainage, including existing natural waterways, in a general manner, but including drainage both within and adjacent to the subdivision;
 - (i) approximate boundary line of proposed lots, with approximate areas and dimensions;
 - (j) estimates of the grades of proposed streets, driveways, or profiles, where required by the Board;

- (k) major sites features such as existing stonewalls, fences, buildings, large trees and wooded areas, rock ridges and outcroppings, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, other water bodies; farm fields, meadows, archaeological and historic structures or points of interest and habitats of wildlife species listed under the Massachusetts Endangered Species Act;
- (l) identification of any land area lying within five hundred (500) feet of any property valued under the provisions of M.G.L. c. 61A, as amended.
- (2) Sketch Plan. The Sketch Plan shall address the general features of the land, and give approximate configurations of the proposed lots, of open space, and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section 3.16.5 below when determining a proposed design for the development. In addition to those requirements for a Yield Plan listed in Section 3.16.4.1(1), a Sketch Plan shall contain the following information:
 - (a) The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
 - (b) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
 - (c) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. A narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer or by a Registered Sanitarian detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title 5 systems, or any combination of these or other methods will be utilized.
 - (d) A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts on-site and to any abutting parcels of land. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.

- (e) A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.
- (f) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
- (g) All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
- (h) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.
- (i) A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

3.16.4.2 Procedures. Whenever an application for a Conventional/ OSRD Special Permit is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Building Commissioner, Police Chief, Fire Chief, and DPW for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing process to permit the formal submission of reports and recommendations within that thirty-five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

3.16.4.3 Site Visit. Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing process. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

3.16.4.4 Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the

Planning Board shall coordinate the public hearing required for any application for a Special Permit for Conventional or OSRD Special Permit with the public hearing required for approval of a definitive subdivision plan.

3.16.5 Design process.

At the time of the application for the Special Permit, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team and was considered in determining the layout of proposed streets, house lots, and designation of all common areas and open space.

3.16.5.1 Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, habitat, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

3.16.5.2 Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

3.16.5.3 Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

3.16.5.4 Lot Lines. Draw in the lot lines.

3.16.6 Open Space within the OSRD

3.16.6.1 A minimum of fifty percent (50%) of the site shall be dedicated open space. The applicant may include a percentage of wetland area in the dedicated open space. The percentage of wetland allowed in the dedicated open space shall not exceed the overall percentage of wetland on the site under existing conditions.

Sample Calculation:

Existing Conditions -

12 acre site (3 acres of wetland) = 25% wetland coverage

Open Space Requirements -
50% Open Space = 6 acres (25% wetland coverage = 1.5 acres)

Open Space can be 4.5 acres of upland and 1.5 acres of wetland

- 3.16.6.2 Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a permanent Conservation or Agricultural Preservation Restriction in accordance with G.L. c. 184 § 31, approved by the Planning Board and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant recorded on the property deed, which shall be approved by the Planning Board and enforceable by the Town or its designee.
- 3.16.6.3 The open space shall be contiguous. Open Space shall be considered contiguous if it is separated by a roadway or an accessory amenity, which may include, but shall not be limited to utility easements, railway tracks, trails, bike paths or any other previously constructed way that does not preclude passage from one natural area to another. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified conservation areas.
- 3.16.6.4 The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.
- 3.16.6.5 Wastewater and stormwater management systems serving the OSRD may be located within the open space provided that they are located in areas previously disturbed. Existing established natural areas such as meadows or forested areas, which are proposed to be part of the open space requirement, shall not be used as part of wastewater or stormwater management systems.

3.16.6.6 Ownership of the Open Space. The open space shall, at the Planning Board's election, be conveyed to:

- (1) The Town or its Conservation Commission;
- (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- (3) A corporation, homeowners association or trust owned jointly or in common by the owners of lots or units within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.
- (4) A private owner for agricultural, horticultural or forestry.

3.16.6.7 Maintenance of Open Space. In any case where open space is not conveyed to the Town, the Town or its designee shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall also provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

3.16.6.8 The Planning Board reserves the right to have any ownership, restrictive covenant or maintenance documentation reviewed by a land use attorney or other Qualified Professional at the applicant's expense before the close of the permitting process.

3.16.7. Reduction of Dimensional Requirements.

Applicants may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

- 3.16.7.1 Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.
- 3.16.7.2 Minimum Lot Area. The minimum lot area shall be 10,000 square feet.
- 3.16.7.3 Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 20 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 0 feet, however the distance between structures shall be a minimum of 20 feet.
- 3.16.7.4 Principal Buildings. No more than one Principal Building shall be contained on a single lot.

3.16.8 Decision of the Planning Board.

- 3.16.8.1 Criteria for Approval. The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, § 9. Prior to the close of the public hearing process, the Planning Board shall recommend the development plan (either the Yield Plan showing Conventional Development or the Sketch Plan showing OSRD), that it considers the most beneficial to the Town. Within seven days, the Applicant shall then elect which plan he or she wishes to pursue and communicate this choice in writing to the Board, prior to the close of the public hearing process. The Board may approve such Plan with or without conditions. The Board shall disapprove both plans only if it finds that either the Conventional Development (Yield Plan) or OSRD Development (Sketch Plan) is not a good faith design, or that the Plan that the Applicant elects to pursue does not conform to the requirements of the Bylaw. The Board may grant a Special Permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:

- (1) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;
- (2) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;

- (3) That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- (4) That the OSRD reduces the total amount of disturbance on the site;
- (5) That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Town's Open Space and Recreation Plan;
- (6) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- (7) That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.
- (8) That the proposed design does not create undo risk to public health, safety and welfare.

3.16.8.2 Relationship between Concept Plan and Definitive Subdivision Plan. Any Special Permit for a Major Residential Development or any Special Permit for OSRD that is granted and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

- (1) An increase in the number of building lots and/or units;
- (2) A significant decrease in the open space acreage;
- (3) A change in the lot layout or unit placement that results in the loss of or encumbrance upon any resource previously identified in the Four Step Design Process as a conservation area (Section 3.16.5.1);
- (4) Significant changes to the stormwater management facilities; and/or
- (5) Significant changes in the wastewater management systems.

3.16.8.3 Amendments to an OSRD-Special Permit. Based on the original OSRD Special Permit, any subsequent change in lot area, setback, or an increase of more than 20% of the gross floor area or footprint of any buildings or

structures, shall require a public hearing and amendment of the OSRD Special Permit.

3.16.9 Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town’s zoning bylaw; or act in relation thereto.

Article 15. To see if the Town will vote to amend the Article I of the Athol Zoning as follows:

1. To amend Article I, Section 1.2.1.1 by changing the numbering as follows:

Existing Section Number	Proposed Section Number
1.2.1.1	1.2.6.1
1.2.1.2	1.2.6.2
1.2.1.1.1	1.2.6.2.1
1.2.1.1.2	1.2.6.2.2
1.2.1.1.3	1.2.6.2.3
1.2.1.1.4	1.2.6.2.4
1.2.1.3	1.2.3.3

- *(This is typographical correction. The bylaws are currently mis-numbered in this section.)*

Article 16. To see if the Town will vote to amend Article II of the Athol Zoning Bylaws as follows:

1. To amend Article II, Section 2.2.1 by deleting the current reference to “Flood Plain (overlay district)” as follows:

2.1.1 The Town of Athol is hereby divided into the following districts:

Multi-Family Residential	RA
Medium Single-Family Residential	RB
Rural Single-Family Residential	RC
Central Commercial	CA
Neighborhood Commercial	CB
General Commercial	G
Industrial	I
Floodplain	F

2. To amend Article II, Section 2.1 by adding following language:

2.1.2 The Town of Athol hereby contains the following overlay districts:

Groundwater Protection District
Flood Plain District

Descriptions of these districts and associated bylaw requirements are contained in Sections 3.11 and 3.13.

3. To amend Article II, Section 2.1 by changing the remaining numbering as follows:

Existing Section Number	Proposed Section Number
2.1.2	2.1.3
2.1.3	2.1.4
2.1.5	2.1.6

4. To amend Article II, Section 2.2.1 by deleting the current language as follows:

2.2.1 Buildings or structures shall be erected or used and premises shall be used only as set forth in the “Use Regulations Schedule”. Symbols employed shall mean the following:

Y - A Permitted Use.

N - ~~An excluded~~ or prohibited use.

SP - Use authorized under special permits as provided for in Section 1.2.6 herein.

YSP - Use authorized by right or by special permit provided there is compliance with the Flood Plain District requirement, Section 3.10.-

5. To amend Article II, Section 2.2.1 by deleting the “YSP” provision as follows:

Y - A Permitted Use.

N - A Prohibited use.

SP - Use authorized under special permits as provided for in Section 1.2.6 herein.

~~YSP — Use authorized by right or by special permit provided there is compliance with the Flood Plain District requirement, Section 3.10.~~

6. To amend Article II, Section 2.3, The Use Regulation Table, as follows:

INDUSTRIAL
GENERAL
NEIGHBORHOOD COMMERCIAL
CENTRAL COMMERCIAL
RESIDENCE C
RESIDENCE B
RESIDENCE A

2.3 Use Regulation Schedule

RA **RB** **RC** **CA** **CB** **G** **I**

AGRICULTURAL USES

Agriculture 1,2	Y	Y	Y	Y	Y	Y	Y
Horticulture 2	Y	Y	Y	Y	Y	Y	Y
Floriculture 2	Y	Y	Y	Y	Y	Y	Y
Viticulture 2	Y	Y	Y	Y	Y	Y	Y
Nursery or Greenhouse							
Private	Y	Y	Y	Y	Y	Y	Y
With Retail Sales	N	N	SP	Y	Y	Y	Y
Wholesale Only	SP	Y	Y	Y	Y	Y	Y
Roadside Stand 2,3	Y	Y	Y	Y	Y	Y	N
Accessory Agriculture 4	N	SP	SP	N	N	N	Y

COMMERCIAL USES

Animal Kennel or Hospital	N	N	SP	N	SP	SP	SP
Automatic Amusement Arcades 5	N	N	N	SP	N	SP	SP
Bookstores							
Adult 6	N	N	N	SP ⁷	N	N	N
Non-Adult	SP	SP	SP	Y	Y	Y	SP
Business or Professional Offices	SP	SP	SP	Y	Y	Y	SP
Funeral Home	SP	SP	SP	N	Y	Y	N
Home Occupation	Y	Y	Y	Y ⁸	Y	Y	Y
Motor Vehicles, Boat or Farm Implements:							
Sales or Rentals	N	N	N	N	SP	Y	SP
Light Service	N	N	N	N	SP	Y	SP
General Repairs	N	N	N	N	N	SP	SP
Body Repairs – Amendment effective Sept 19, 1983	N	N	N	N	N	SP	SP
Used parts and dismantling	N	N	N	N	N	N	N
Parking							
Accessory	Y	Y	Y	Y	Y	Y	SP

Business	SP	N	SP	Y	Y	Y	SP
Public	N	N	N	Y	Y	Y	N
Restaurant							
Indoor	N	N	N	Y	Y	Y	SP
With Outside Service	N	N	N	SP	SP	SP	SP
Retail Business	SP	SP	SP	Y	Y	Y	SP
Wholesaling							
Without Storage	N	N	N	Y	Y	Y	SP
With Storage	N	N	N	N	N	Y	SP
Accessory to Business							
Residential use of upper floors in							
Building used for commercial purposes 9	SP	N	N	Y	SP	SP	N
Communication Towers with Transfer Stations	N	N	SP	N	N	N	SP

(Amended at the October 17, 2005 Special Town Meeting. Approved by the Attorney General on February 28, 2006.)

INDUSTRIAL USES

Industrial							
General	N	N	N	N	N	SP	Y
Light, in existing bldg	SP	N	SP	SP	SP	Y	Y
Light, in new bldg	N	N	N	N	N	Y	Y
Bulk Storage 10	N	N	N	N	N	Y	Y
Contractor's Yard 10	N	N	N	N	N	Y	SP
Earth Removal	SP	SP	SP	N	N	SP	SP
Junk Yard	N	N	N	N	N	N	N
Radio Transmission	N	N	SP	N	N	Y	Y
Transport Terminal	N	N	N	N	N	SP	SP
Warehouse	N	N	N	N	N	Y	Y

INSTITUTIONAL USES

Municipal Use	Y	Y	Y	Y	Y	Y	Y
Religious Use 11,12	Y	Y	Y	Y	Y	Y	Y
Educational Use 11, 12	Y	Y	Y	Y	Y	Y	Y
Nursery, for profit school	Y	SP	Y	N	Y	N	SP
Private, for profit school	N	N	N	Y	Y	Y	N
Social Day Care Center	SP	SP	SP	SP	SP	SP	SP
(Amendment effective May 1, 1991)							
Day Care Center	SP	SP	SP	SP	SP	SP	SP
(Amendment effective May 4, 1992)							
Cemetery	Y	Y	Y	N	N	N	N
Hospital	Y	Y	Y	Y	Y	Y	SP
Philanthropic Institution	Y	Y	Y	Y	Y	Y	N
Public Utility							
Building w/o Service Area 13	Y	Y	Y	Y	Y	Y	Y
Building w/ Service Area	N	N	N	N	SP	Y	Y
Service Area, no bldg	N	N	N	N	N	SP	SP

RECREATIONAL USES

Boathouse							
Private	Y	Y	Y	Y	Y	Y	N
Public	SP	SP	SP	N	Y	Y	N
Camping							
Commercial	N	N	SP	N	N	N	N
Supervised	SP	N	Y	N	N	N	N
Club	SP	N	SP	Y	Y	Y	N
Golf Course	Y	Y	Y	Y	Y	Y	N
Recreation							
Indoor commercial	N	N	N	Y	Y	Y	SP
Adult motion picture theater	N	N	N	SP ¹⁴	N	N	N
Municipal	Y	Y	Y	Y	Y	Y	SP
Outdoor Commercial 6	N	N	N	N	N	SP	SP
Outdoor Adult Motion Picture Theater	N	N	N	N	N	SP ¹⁴	N
Private	Y	Y	Y	Y	Y	Y	SP
Sportsman's Club, game preserve	Y	Y	Y	Y	Y	Y	N
Stables							
Private 15	SP	N	SP	N	SP	SP	N
Public 15	N	N	SP	N	N	SP	N

RESIDENTIAL USES

Dwelling							
Single Family	Y	Y	Y	N	Y	Y	Y ²⁰
Two-Family	Y	N	SP	N	Y	Y	Y ²⁰
Multi-Family up to Four Families	Y	N	SP	N	Y	SP	SP ²⁰
Multi-Family over Four Families	SP	N	SP	N	SP	SP	SP ²⁰
Mobile Home							
Single	N	N	N	N	N	N	N
Temporary Single 16	Y	Y	Y	Y	Y	Y	Y
Mobile Home Park	N	N	N	N	N	N	N
(Amendment at May 1, 2000, Approved by Atty General on Sept., 1, 2000)							
Conversion: single family to multi-family 17	SP	SP	SP	N	N	SP	N
Boarding House	SP	N	SP	N	N	SP	N
Guest House							
Commercial	SP	N	SP	N	Y	Y	N
Private	Y	Y	Y	N	SP	SP	N
Motel or Hotel	N	N	N	Y	Y	Y	Y
Nursing, Convalescent, or Rest Home	SP	N	SP	N	SP	SP	N

OTHER USES

Accessory Uses to Activities Permitted 18 as a Matter or Right for Scientific Research or Scientific Development or Related Production	SP	SP	SP	SP	SP	SP	SP
Accessory Uses	Y	Y	Y	Y	Y	Y	Y

Airport	N	N	SP	N	N	N	SP
Mobile Structures	N	N	N	N	N	N	N
Signs 19							
Temporary 19	Y	Y	Y	Y	Y	Y	Y
Billboards	N	N	N	N	N	N	N
Permanent 19 (See sign reg. Sec. 3.9)							
Temporary Structures	Y	Y	Y	Y	Y	Y	Y

1. Provided that no structures housing poultry are within 100 ft. of any street or property line.
2. Provided that such activities shall be located on parcels of more than five acres in area.
3. For the sale of produce, wine and dairy products, a majority of which have been produced by the owner of the land on which the roadside stand is located and provided that the stand is not within 5 ft. of the street line, nor within 20 ft. of a lot line.
4. Provided the use is accessory to single family residential premises for the raising and keeping for non-commercial purposes of horses, livestock, or other farm animals by the owner of the land on which the use is located.
5. Automatic amusement includes devices licensed under General Laws, Chapter 140, Section 177A, Section 181, or both as appropriate.
6. As defined by General Laws, Chapter 40A, Section 9A.
7. Provided that such use is located at least 500 ft. from any residential zoning district, or from any residential bookstore or adult motion picture theatre, or from any establishment licensed under the provisions of General Laws, Chapter 138, Section 12, and further provided that no stock in trade as specified in General Laws, Chapter 40A, Section 9A, "Adult Bookstore" definition, shall be on display in any bookstore window or opening visible to the public, nor shall it otherwise be used as an advertisement, sign, or method of drawing attention.
8. omitted Oct. 16, 2006
9. In a new building or conversion of an existing building to accommodate both residential and commercial uses. Each dwelling unit to be at least 600 sq. ft.
10. Provided no open storage within 50 ft. of a street or residence. All such uses shall provide visual screening from adjacent properties through the use of trees, shrubs or other natural vegetated buffers in addition to any fences or other man-made barriers that may be incidental to the use.
11. Provided that such use is on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation.
12. Subject to the intensity and dimensional regulations of sections 2.4 and 2.5, and the parking requirements of 3.5.
13. Provided that the land or structure used, or to be used, by a public service corporation by be exempted in particular respect from the operation of this by-law if, upon petition of the corporation, the Department of Public Utilities shall, after notice given pursuant to General Laws, Chapter 40A, Sec. 11, and public hearing in Athol, determine the exemptions required, and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.
14. Provided that such use, if outside, is screened from public view, and is located at least 500 ft. from any residential zoning district, or from any other adult bookstore of adult motion picture theatre, or from any establishment licensed under the provisions of General Laws, Chapter 138, Section 12, and further provided that no material as specified in General Laws, Chapter 40A, Section 9A, "Adult motion picture theatre" definition, shall be on display visible to the public, nor should it otherwise be used as an advertisement, sign, or method of drawing attention.
15. Provided that no stables are located within 100 ft. of a lot line or street line.
16. Provided that such use shall only be by an owner, occupier or both, of a residence which has been destroyed by fire or other natural holocaust, and that the mobile home shall provide a temporary residence for no longer than 12 months while the residence, which was destroyed, is being rebuilt. Such temporary mobile home shall be subject to the provisions of the state sanitary code.
17. Each dwelling unit to be at least 500 sq. ft.
18. Provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good even though the accessory use does not have to be located on the same parcel of the principal use. Accessory uses specifically identified in other sections of the Bylaw, including but not limited to trailers and roadside stands, shall be allowed in accordance with those provisions.
19. Subject to the Sign Regulation Schedule, section 3.9.4

20. Single family and two-family are permitted and Multi-families up to four and multi-families more than four require a Special Permit only if all the structures are within 175 feet of any Industrial Zone boundary or within 175 feet of any public way that existed in the Industrial Zone at the time of the adoption of the bylaw. Amended at the October 18, 2004 Fall Town Meeting. Approved by the Attorney General on December 22, 2004.

7. To amend Article II, Section 2.6., The Intensity of Use Schedule, as follows:

	RESIDENTIAL A	RESIDENTIAL B	RESIDENTIAL C	CENTRAL COMMERCIAL	NEIGHBORHOOD COMMERCIAL	GENERAL	INDUSTRIAL
	RA	RB	RC	CA	CB	G	I
<u>2.6 Intensity of Use Schedule</u>							
<u>Minimum Lot Requirements</u>							
Area, Total or First Dwelling Unit (1,000 sq. ft.)	8	10	*44	0	10	10	40
Area, Each Additional Unit (1,000 sq. ft.)	4	-	10	-	2	2	-
Width (feet)	65	70	115	0	115	75	200
Frontage (feet)	65	70	*160	0	115	75	200
Depth (feet)	80	100	*175	0	80	80	150
<u>Minimum Yard Requirements</u>							
Front (feet) ^c	25	25	30	0	25	0 ^a	40
Side (feet) ^c	10	15	20	0	0 ^a	0 ^{a,b}	30
Rear (feet)	30	30	30	15	15 ^a	15 ^a	30
<u>Maximum Building</u>							
Maximum Lot Coverage (%)	20	15	15	50	30 ^a	40 ^a	35
Height (feet)	35	35	35	50 ^e	35	45	45
Floor Area Ratio	0.3	0.2	0.2	1.0	0.5a	0.5a	0.4
<u>Minimum Landscaping</u>							
Between Street Line and Building or Parking Lot (feet)	20	25	30	0	10 ^a	0 ^a	40
Overall Landscaping per Dwelling Unit (sq. ft.)	2,000	-	3,000	-	2	2	-
Overall Landscaping Percent of Lot Area	-	-	-	0	0	0	20

- a. Permitted residential uses other than those that are accessory to commercial use on upper floors must comply with the requirements associated with the RA District.
- b. Increase to 15 feet when abutting a residential district. Increase n the applicable side yard only
- c. Corner lot shall maintain front yard requirements for each street frontage.
- d. Uses and buildings must comply with regulations for the underlying district.
- e. Building shall not exceed four stories.

- Amendment effective May 5, 1986.

Article 17. To see if the Town will vote to amend Article III of the Athol Zoning Bylaws as follows:

1. To amend Article III, Section 3.1.2 by deleting the following language which reads:

Restoration – Any non-conforming structure or building damaged by fire, storm, or other causes may be repaired or rebuilt as a non-conforming structure or building provided that such rebuilding does not exceed 75% of the structure’s or building’s original market value. Any restoration beyond that extent, and any restoration not completed within two years after such catastrophe, must conform to the provisions of this By-Law.

and replacing it with the following:

Restoration – Any non-conforming structure or building damaged by fire, storm, or other causes may be repaired or rebuilt as a non-conforming structure or building provided that such rebuilding does not exceed the structure’s or building’s market value at time of catastrophe by more than 75%. Any restoration beyond that extent, and any restoration not completed within two years after such catastrophe, must conform to the provisions of this Bylaw.

2. To amend Article III, Section 3.1.4 by deleting the following language which reads:

A non-conforming use may be changed to another non-conforming use or substantially extended; and a non-conforming structure or building may be extended, or structurally changed, or altered after the first notice of the planning board’s public hearing on a zoning change to provide for its use for a substantially different purpose, or for the same purpose in a substantially different manner, or to a substantially greater extent provided there is a finding by the board of appeals that such change, extension or alteration is not substantially more detrimental to the neighborhood than the existing non-conforming use.

and replacing it with the following:

The Board of Appeals may authorize, under a Special Permit, a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Board may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.

3. To amend Article III, Section 3.2.1. by deleting the current language which reads:

Accessory Building – No accessory building or structure, except a permitted sign or a roadside stand, shall be located within a required front yard area. A detached accessory building may be located in the rear or side yard areas and on the same lot as the principal building, provided that no more than forty (40%) percent of the required yard area shall be so occupied, and further provided that an accessory building or structure shall not be located nearer than ten (10) from the principal

building. An accessory building or structure shall not be located closer to structures than ten (10) feet and detached buildings or structures may be located ten (10) feet from side and rear lot lines. On lots described in Section 1.4.2 (generally those existing before this By-Law became effective) having less than 8,000 s.f., accessory buildings or structures may be constructed to within 3 feet of a lot line.

and replacing it as follows:

Accessory Building – No accessory building or structure, except a permitted sign or a roadside stand, shall be located within a required front yard area. A detached accessory building may be located in the rear or side yard areas and on the same lot as the principal building, provided that no more than forty (40%) percent of the required yard area shall be so occupied, and further provided that an accessory building or structure shall not be located nearer than ten (10) feet from the principal building. A detached accessory building or structure shall not be located closer than ten (10) feet from other structures. Detached accessory buildings or structures may be located ten (10) feet from side and rear lot lines. On lots described in Section 1.4.2 (generally those existing before this By Law became effective) having less than 8,000 s.f., accessory buildings or structures may be constructed to within 3 feet of a lot line.

4. To amend Article III, Section 3.4.1 deleting the current language which reads:

Home occupations are permitted if conforming to the following conditions:

and replacing it with the following:

Home occupations proposed by right or through a Special Permit in accordance with Table 2.3 shall conform to the following minimum standards.

5. To amend Article III, Section 3.4.B.7 by deleting the current language which reads:

No more than one (1) commercial vehicle with a gross vehicle weight (GVW) more than 10,000 GVW shall be parked on the premises.

and replace it with the following:

Not more than one (1) commercial vehicle shall be parked on the premises, gross vehicle weight (GVW) shall not exceed 10,000 lb. GVW.

6. To amend Article III, Section 3.11.2.2 by deleting the current language which reads:

Special Permits – Uses permitted in the underlying district shall be permitted by special permit from the board of appeals provided the use is in harmony with the intent and purpose of this by-law and, furthermore, that the following provisions are complied with:

and replacing it with the following:

Special Permits-Uses permitted in the underlying district that require structures, fill, or storage of materials or equipment shall be permitted by Special Permit from the Zoning Board of Appeals provided that the use is in harmony with the intent and purpose of this bylaw and, furthermore, that the proposed use complies with the following:

- 7. To amend Article III, Section 3.11.2.3 by change its numbering to Article III, 3.11.2.4**
- 8. To amend Article III by adding new Article III, Section 3.11.2.3 as follows:**

“Prohibited Uses-the following uses are prohibited in the Flood Plain District Overlay:”

1. Indoor or Outdoor Adult Motion Picture Theatre
2. Outdoor Commercial Recreation

Article 18. To see if the Town will vote to amend Article IV of the Athol Zoning Bylaws as follows:

- 1. To amend Article IV, Section 4.1 by adding the following definition for Major Residential Development.**

“Major Residential Development-Any proposed residential subdivision that would create five or more lots.”

- 2. To amend Article IV, Section 4.1 adding the following definition for Residential, Accessory to Commercial:**

“Residential, Accessory to Commercial-residential use that is subordinate to a commercial use and is incorporated into the same building either above or behind the commercial use. Such residential use shall be considered distinct from other residential uses such as single family, two family, or multi-family dwellings.”

- 3. To amend Article IV, Section 4.1 by deleting the following language which reads:**

Public Utility Service Area. An area used for bulk storage, exposed equipment, or truck parking.

and replace it with the following in alphabetical order:

Service Area, Public Utility. An area used for bulk storage, exposed equipment, or truck parking or any indoor or outdoor facility associated with a utility that is used to regularly or periodically service machines, vehicles or other goods or equipment associated with the operation of that utility; or act in relation thereto.