

**TOWN OF NATICK, MA**

**ZONING BY-LAW**

**May 2, 2013**

**NATICK ZONING BY-LAW  
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## **SECTION 1.0 PURPOSE AND AUTHORITY**

**1.1 PURPOSE.** The Natick Zoning By-law (“this By-Law”) is enacted to promote the general welfare of the Town of Natick, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the Town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

**1.2 AUTHORITY.** This By-Law is enacted in accordance with the provisions of G.L. Chapter 40A, any and all amendments thereto, and in accordance with Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.3 SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, the intensity of use, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

**1.4 APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulation, permit, restriction, easement, covenant, or agreement, the provisions of this By-Law shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

**1.4.1 Applicability; Nonconformities.** Except as herein after provided, this By-Law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this By-Law or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure.

**1.4.2 Commencement of Construction or Operation.** Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this By-Law, unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

## **1.5 ZONING AMENDMENTS.**

**1.5.1 Hearings.** It shall be the duty of the Planning Board, upon petition signed by the owners of fifty percent in valuation of the property contained in the area of any entire block, and it may proceed upon its own initiative, to appoint and hold a public hearing, of which it shall give published notice as required by G.L. 40A, s, 5, for the consideration of amendments altering the boundaries of any district established by this By-law, or the regulations applied to the same, or proposing the creation of new districts.

**1.5.2 Procedures.** This By-law may be amended from time to time in accordance with provisions of Section 5 of G.L. Chapter 40A.

**1.5.3 Reports.** The Planning Board shall report to the Town Meeting its recommendations in regard to any proposed amendments to this By-law that are brought before a Town Meeting for action.

## **1.6 REPEAL**

This Zoning By-Law and the repeal of all Zoning By-Laws heretofore in force shall not affect any act done, any right accrued, any penalty or liability incurred or any suit, prosecution or proceeding pending at the time they take effect.

## **1.7 EFFECTIVE DATE**

All Zoning By-Laws shall take effect as set forth in G.L. c. 40A, s. 5.

## **1.8 SEVERABILITY**

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

## **SECTION 2.0 DISTRICTS**

**2.1 ESTABLISHMENT.** For the purposes of this By-Law and such other by-laws as may apply, the Town of Natick is hereby divided into the following types of districts (to be designated by the appropriate initials and numerals as appear after each type below):

*RESIDENTIAL DISTRICTS*

Residential General	RG
Residential Multiple	RM
Residential Single	RS (A to C Inclusive)
Planned Cluster Development	PCD

*COMMERCIAL DISTRICTS*

Administrative & Professional	AP
Downtown Mixed Use	DM
Commercial Two	CII
Hospital	H
Highway Mixed Use - I	HM-I
Highway Mixed Use - II	HM-II
Highway Mixed Use - III	HM-III
Limited Commercial	LC
Highway Planned Use	HPU

*INDUSTRIAL DISTRICTS*

Industrial One	InI
Industrial Two	InII

**2.2 OVERLAY DISTRICTS.** In addition, the following overlay districts are also hereby established in Section 9.0:

Flood Plain	FP
Aquifer Protection Overlay District	APD
Highway Overlay District	HOD
Housing Overlay Option Plan - I	HOOP - I
Housing Overlay Option Plan - II	HOOP - II



**2.3 LOCATION OF DISTRICTS.** Said districts are located and bounded as shown on a map entitled "Zoning Map of Natick, Massachusetts," on file in the offices of the Town Clerk and Town Planning Board dated February 10, 1960, as last revised. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this By-law and shall be re-issued annually by the Planning Board to incorporate such amendments as may be made by Town Meeting action and approved as required by the Attorney General of the Commonwealth of Massachusetts.

**2.3.1 Boundary Determination.** The location of the boundary lines of the districts shown upon the Zoning Map shall be determined as follows:

1. Where a boundary is shown as following a street, railroad or utility, the boundary shall be the center line thereon unless otherwise indicated.
2. Where a boundary is shown outside of a street, railroad or utility and approximately parallel thereto, the boundary shall be deemed parallel to the center line thereof, and the figure placed on the zoning map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.
3. Where a boundary is shown as following a water-course, the boundary shall coincide with the center line thereof as said line existed at the date of the zoning map.
4. Where the location of a boundary line is otherwise uncertain, the Building Commissioner shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale.

## **2.4 SPLIT LOTS**

**2.4.1 Lot Split by District Boundary Line.** Where a district boundary line divides any lot existing at the time such boundary line is adopted, the lot shall be considered as if divided by that boundary into separate portions, with development of each portion of the lot to meet all requirements of the district in which it is located (including lot area, frontage, and yards) within that district. However, the lot shall be considered as a whole in the case of a use allowed in both districts, in which event the dimensional regulations of the district in which the majority of the lot frontage lies shall apply to the entire lot.

**2.4.2 Lot Split by Town Line.** When a lot in one ownership is situated in part in the Town of Natick and in part in an adjacent municipality, the provisions of this By-Law shall be applied to that portion of the lot lying in the Town of Natick in the same manner as if the entire lot were situated therein.

## SECTION 3.0 USE REGULATIONS

**3.1 PRINCIPAL USES.** No building or structure shall be erected or used and no premises shall be used except as set forth in the "Table of Use Regulations" herein and in accordance with the following notations:

Y - A permitted use

N - A prohibited use

SP - Use allowed under a Special Permit as granted by the SPGA

**3.1.1 Conformance with Dimensional Requirements.** Permitted uses and uses allowed by special permit shall be in conformance with the provisions of Section 4.0, unless otherwise set forth in this By-Law.

**3.1.2 Interpretation.** Where a use might be classified under more than one category set forth in the Table of Use Regulations, the more specific category shall determine permissibility. If equally specific, the more restrictive category shall govern. A use not classifiable under any listed category is forbidden in all zoning districts.

### 3.1.3 Table of Use Regulations.

<b>A. RESIDENTIAL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. One-family detached dwelling	Y	N	Y	N	Y	N	N	N	N	N	Y
2. Family suite	N	N	SP	N	N	N	N	N	N	N	N
3. One-family detached dwelling for personnel required for the safe operation of a permitted use to reside on the premises thereof	N	N	N	SP	N	Y	SP	SP	SP	N	Y
4. Two-family or semi-detached dwelling	Y	Y	N	N	N	Y	N	N	N	N	Y
5. Alteration and conversion of a one-family house existing at the time of the adoption of this by-law, to accommodate two families if located on a lot having an area at least twenty-five percent greater than required for a one-family house	Y	Y	N	N	N	Y	N	N	N	N	Y
6. Multiple family building (* not more than 6 units)	N	Y	N	SP	N	SP	N	N	N	N	Y*
7. Nursing home; long term care facility	SP	N	N	N	SP	SP	N	N	N	SP	Y
8. Assisted living residence	SP	SP	N	SP	SP	SP	SP	N	SP	SP	Y
9. Boarding house	N	N	N	N	N	SP	N	N	N	N	N
<b>B. RECREATIONAL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Country club, including golf by natural light only, riding, tennis and boat houses (* 100' setback to building)	Y	N	N	SP	N	N	N	N	N	N	Y*
2. Country club, including golf by natural light only, riding, tennis and boat houses and community centers for exclusive use of the residents of the particular district in which it is located	N	N	N	N	N	N	N	N	N	N	N
3. Lodge building or other non-profit social or civic use, but not including any use, the principal activity of which is one customarily conducted as a business	Y	N	SP	SP	N	Y	N	N	N	N	Y
4. Indoor amusement or recreation place or place of assembly provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than one hundred feet from a residential district	N	N	N	N	N	SP	SP	N	N	N	N
5. Commercial outdoor amusement or recreation use, but not including outdoor movie theatre	N	N	N	N	N	N	SP	N	N	N	N

<b>C. AGRICULTURAL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Farm for the raising, keeping and sale of cattle, horses, sheep, goats and for the growing and sale of all agricultural products including fruits, vegetables, hay and grain, all dairy produce, and eggs, not otherwise exempt	SP	N	SP	N	N	N	SP	N	N	N	N
2. Premises for the raising of swine, poultry, fowl and fur-bearing animals, not otherwise exempt	SP	N	SP	N	N	N	N	N	N	N	N
3. A stall or stand for selling farm or garden products a major portion of which is raised or produced on the premises by the owner or lessee thereof, not otherwise exempt	Y	N	Y	N	N	N	Y	N	N	N	N
4. Greenhouse, nursery and truck garden	Y	N	Y	N	N	N	SP	N	N	N	N

<b>D. INSTITUTIONAL AND EXEMPT USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Municipal facility and building for public uses and purposes	SP	SP	SP	SP	SP	Y	Y	Y	Y	N	Y
2. Municipal solid waste facility	SP	SP	SP	SP	SP	N	Y	Y	Y	N	N
3. Essential services	SP	SP	SP	SP	SP	Y	SP	SP	SP	N	N
4. Use of land or structures for religious purposes on land owned or leased by a religious sect or denomination	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Use of land or structures for educational purposes 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	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. Child care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Library; museum	Y	N	Y	N	SP	Y	N	N	N	N	N
8. Cemetery	SP	N	SP	N	N	N	N	N	N	N	N
9. Hospital	N	N	N	N	N	SP	SP	N	N	SP	N

<b>E. RETAIL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Retail stores	N	N	N	SP	N	Y	SP	N	N	N	Y
2. Wholesale or retail office or showroom with inside storage of goods for sale on premises only	N	N	N	N	N	Y	SP	N	N	N	Y
3. Craft, consumer, professional or commercial service establishments dealing directly with the general public	N	N	N	SP	N	Y	SP	N	N	N	Y

<b>F. MOTOR VEHICLE RELATED USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Salesroom for motor vehicles, trailers, boats, farm implements, or machinery, with no repair services excluding used-car lots	N	N	N	N	N	SP	SP	N	N	N	Y
2. Salesroom for motor vehicles, trailers, boats, farm implements, or machinery, with repair services and storage including used-car lots	N	N	N	N	N	N	SP	SP	N	N	N
3. Repair garage for motor vehicles	N	N	N	N	N	N	SP	SP	N	N	N
4. Auto body, soldering, or welding shop	N	N	N	N	N	N	SP	SP	N	N	N
5. Commercial parking lot or parking garage, motor vehicle light service	N	N	N	N	N	SP	SP	SP	N	N	N
6. A facility exclusively for, or whose principal activity is, the changing of oil and related lubrication services on motor vehicles	N	N	N	N	N	N	SP	SP	N	N	N
7. Car wash with mechanical vehicular washing system using water and chemical additives	N	N	N	N	N	N	SP	SP	N	N	N

<b>G. RESTAURANT USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Restaurant, tea rooms, lunchrooms or other places serving permitted beverages inside a building	N	N	N	N	N	Y	SP	N	N	N	Y
2. Restaurant or other places serving food or permitted beverages and providing live or mechanical entertainment or serving customers outside of buildings	N	N	N	N	N	N	SP	N	N	N	N
3. Cafeteria or restaurant for sole use of personnel employed on the premises of permitted use	N	N	N	N	N	Y	SP	SP	SP	N	Y
4. The serving of food and/or permitted beverages, with or without accompanying entertainment, on the premises of a hotel, including without limitation, all restaurants, cocktail lounges, room service facilities, meeting and function rooms on said premises	N	N	N	N	N	SP	SP	N	N	N	N

<b>H. OFFICE USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Business or professional office or agency, bank or other financial institution	N	N	N	SP	SP	Y	SP	SP	SP	N	Y
2. Administrative offices, clerical offices, statistical offices and establishments for research and development	N	N	N	N	SP	Y	N	SP	SP	N	Y
3. Health Care facility, including diagnostic and health care professional offices with not more than 2,500 sq. ft.	N	N	N	N	Y	Y	SP	SP	N	N	N
4. Health Care facility, including diagnostic and health care professional offices with more than 2,500 sq. ft.	N	N	N	N	SP	SP	SP	N	N	N	N

<b>I. MISCELLANEOUS COMMERCIAL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Tourist home	N	Y	N	N	N	SP	SP	N	N	N	N
2. Hotel; motel	N	Y	N	N	N	SP	SP	N	SP	N	N
3. Animal or veterinary hospital providing it is located 200 ft. from nearest residential dwelling	SP	N	N	N	N	N	SP	N	N	N	N
4. Dog kennel	SP	N	SP	N	N	N	SP	N	N	N	N
5. Printing or publishing establishment provided that not more than 5,000 sq. ft. are used for work and storage	N	N	N	N	SP	Y	SP	N	N	N	Y
6. Printing or publishing establishment provided with more than 5,000 sq. ft. are used for work and storage	N	N	N	N	SP	Y	SP	SP	SP	N	Y
7. Undertaking establishment or funeral home	N	N	N	N	N	Y	SP	N	N	N	N

<b>J. INDUSTRIAL USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Dumps and use of land for the disposal of refuse by the sanitary-fill method provided the same is also approved by the Board of Health and vote of the Town	SP	N	SP	N	N	N	N	SP	SP	N	N
2. Junkyard enclosed by a 10' high fence or other closed screen acceptable to Building Commissioner	N	N	N	N	N	N	N	N	SP	N	N
3. Light manufacturing uses (including renewable or alternative energy light manufacturing uses) when the processes involved entail only fabrication, assembly, finishing work or packaging conducted in such a manner that noise, smoke, dust, odor, vibration or similar objectionable features are confined to the premises	N	N	N	N	N	Y	N	SP	SP	N	N
4. General industrial uses including manufacturing, renewable or alternative energy manufacturing, processing, or other industrial operations that will not be offensive to adjoining districts in respect to obnoxious noise, smoke, dust, odor, waste disposal, vibration or similar objectionable features	N	N	N	N	N	N	N	N	SP	N	N
5. Renewable or alternative energy research and development facilities	N	N	N	N	N	Y	N	SP	SP	N	N
6. Motor freight or other transportation terminals; yards for the servicing of trucks and trailers	N	N	N	N	N	N	N	N	SP	N	N
7. Warehouses (excluding retail warehouses), for storage of any personal property with no sales taking place on the premises; and open storage yards of lumber, stone, brick, gravel, cement, and contractor's equipment, or other bulky merchandise, which may be sold on the premises (* Less than 1,000 sq. ft. gfa; SP for more)	N	N	N	N	N	Y*	N	N	SP	N	N

<b>K. WIRELESS COMMUNICATIONS</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2. Wireless Communications Facility, including only a free standing monopole	N	N	N	N	N	N	N	N	N	N	N
3. Indoor Wireless Communications Facility (IWCF)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Facilities for housing telecommunications equipment, such as sites where network systems can be interconnected to the fiber optic high band cable network, or to such network as it may be modified hereafter	N	N	N	N	N	N	SP	SP	SP	N	N

<b>L. RESIDENTIAL ACCESSORY USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Renting of one or two rooms and the furnishing of board by a resident family to not more than three non-transient persons (*not more than 4)	Y	N	N	N	N	N	N	N	N	N	Y*
2. Private garage or outdoor vehicle storage in connection with a dwelling for not more than three motor vehicles which shall not include more than one commercial vehicle two and one half tons gross weight or more than one vehicle owned by a non-resident of the premises except in the case of a farm operated on a full-time basis by a resident thereon	Y	Y	Y	Y	N	N	N	N	N	N	N
3. Customary home occupation	Y	Y	Y	SP	N	Y	SP	N	N	N	Y
4. Building accessory to a dwelling or premises to be used as an office or workroom for the conduct of a professional office or studio or customary home occupation	SP	N	SP	N	N	N	SP	N	N	N	N
5. An office, studio or workroom connected and strictly accessory to the residence of the occupant, and in which no activity inappropriate to the district shall be carried on	SP	SP	SP	SP	N	N	Y	N	N	N	N
6. Family child care home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Family child care home, large	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

<b>M. OTHER USES</b>	<b>RG</b>	<b>RM</b>	<b>RS</b>	<b>PCD</b>	<b>AP</b>	<b>DM</b>	<b>CII</b>	<b>INI</b>	<b>INII</b>	<b>H</b>	<b>LC</b>
1. Private landing area to be used solely for the landing, taking off, and storage of privately owned airplanes and/or helicopter	SP	N	SP	N	N	N	N	N	N	N	N



**3.2 ACCESSORY USES.** No accessory building, structure, or use shall be erected or used and no premises shall be used except as set forth in the Table of Use Regulations herein.

**3.2.1 Accessory Buildings.** No accessory building or structure shall be located within the required front yard. No accessory building shall be located in any side yard nearer to the side lot line than ten feet, or in a rear yard area nearer to the rear lot line than ten feet, or nearer to another principal or accessory building than ten feet. Accessory buildings are included within the maximum percent of building coverage.

**3.2.2 Accessory Uses; Keeping of Livestock.** The keeping of livestock shall not be permitted in residential zones on lots less than 40,000 square feet in area, and any structure for housing such livestock shall be located at least 200 feet from any abutting residential structure. Such livestock shall be suitably fenced. Then such approval shall be subject to obtaining necessary permits from the Board of Health and Building Department.

**3.2.3 Home Occupation.** A home occupation shall conform to the following standards:

1. Only one person other than members of the family residing on the premises shall be simultaneously engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the building area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
4. No home occupation shall be conducted in any accessory building.
5. There shall be no sales other than goods produced or assembled on the premises in connection with such home occupation nor public display of goods or wares.
6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation beyond such normal volume shall be met off the street and other than in a required front yard.
7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, smoke, dust, odors, heat, unsightliness, or electrical interference detectable to the family residence. In the case of electrical interference, no equipment or

process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

8. There is no exterior storage of materials or equipment including automotive parts and construction equipment

9. There is no external structural alteration which is not customary in a residential building.

## **SECTION 4.0 DIMENSIONAL REQUIREMENTS**

### **4.1 GENERAL REQUIREMENTS**

**4.1.1 General.** A dwelling, building, or any structure hereafter erected in any district shall not be located on a lot having less than the minimum requirements specified in this Section and no more than one dwelling shall be built upon any single lot except as otherwise provided in this By-Law.

**4.1.2 Measurement of Front Yard.** The minimum front-yard dimensions required in the following schedule are to be measured from the street line where a plan of the way or street is on file or platted with the Natick Planning Board or with the Registry of Deeds or, in the absence of such a plan or plat, from a line twenty feet from the parallel with the center of the traveled way or street.

**4.1.3 Table of Dimensional Requirements.** The following dimensional requirements are applicable to all structures unless otherwise provided for in this By-Law.

**TABLE OF DIMENSIONAL REQUIREMENTS: Minimum Lot Dimensions (in feet)**

District Designation	Area	Cont. Frontage	Depth	Front	Side	Rear	Maximum % Building coverage (including Accessory Building)	Maximum Height of Building (c)*	Open Space Requirement per lot
<b>RM</b>	20,000 (d)	120 (k)	125 (k)	30 (k)	12 (l)	25 (m)	25	1.5 x width of street	40% (n)
<b>RSA</b>	15,000	110	125	30	12 (z)	25	25	2.5 stories or 35 ft.	None
<b>RSB</b>	40,000	140	150	40	20 (z)	40	20	2.5 stories or 35 ft.	None
<b>RSC</b>	20,000	120	125	30	12 (z)	25	20	2.5 stories or 35 ft.	None
<b>RG</b>	12,000	100	100	30	12 (h,z)	25 (g)	30	3 stories or 40 ft.	None
<b>AP</b>	30,000	120	140	30	20 (x)	25 (x)	25	2.5 stories or 35 ft.	35%
<b>DM</b>	See Section 4.4								
<b>CII</b>	40,000	200 (e)	200	40, 85(a,f)*	40 (j)	40	30	2 stories or 30 ft.	10%
<b>HPU</b>	See Section 10.4								
<b>IN-I</b>	20,000	120 (e,f)	150	40 (a,f)	20	20	35	2 stories or 30 ft.	10%
<b>IN-II &amp; HM-1</b>	80,000	200 (e)	200	85	100 (b)	100 (b)	50	80 ft. ▲	None
<b>HM-1</b>									HM-1 -- No limit
<b>HM-II</b>	See Section 10.2								
<b>H</b>	800,000	600	600	75	50	100	30	6 stories or 85 ft.	50% (v)
<b>LC</b>	See Section 4.5								
<b>HM-III</b>	See Section 10.3								

**4.1.4 Notes to Table of Intensity Regulations.**

- a. Reserved.
- b. Applies only to premises abutting a residential district (RG, etc.), otherwise for Commercial (C-II) may be 0 ft. side yard and for Industrial (IN-II) and Highway Mixed Use - I (HM-I) shall be 1.5 times the height of building, but not less than 40 ft.
- c. Note type of construction in the Commonwealth of Massachusetts, State Building Code, which shall solely govern height limitations for zoning purposes, where same is more restrictive than the specifications hereinabove, provided, however; any building erected in a C-II or IN-I District the nearest portion of which building is more than 250 feet from the nearest residential boundary line shall be governed by only a height limitation of 75 feet.

Any building erected in a Hospital (H) District shall not exceed forty-five (45) feet in height within 150 feet of any residential district. The maximum allowable height may be increased up to eighty-five (85) feet upon issuance of a Special Permit by the SPGA, so long as those portions in excess of forty-five (45) feet in height do not exceed one or more forty-five (45) degree sky exposure planes beginning at the ground one hundred (100) feet from the nearest residential district.

d. 20,000 square feet for first four families, 4,300 square feet for each family thereafter, and in addition to the minimum frontage required per lot for four families; each family thereafter an additional 10 feet of street frontage.

For large parcel development HM-II Districts (see Section 10.0), the Planning Board, in accordance with Section 11.7 shall allow densities of up to a maximum of twenty (20) units per acre.

e. One entrance and exit only per street frontage.

f. 85 ft. setback applies to Worcester Street (Route 9).

g. One-half height of building, but in no case less than 25 ft.

h. One-third height of building, but in no case less than 12 ft.

i. Two-hundred-foot frontage applies to Worcester Street (Route 9).

j. In a C-II district, side yards as indicated are not required for a structure located on a lot of at least five acres in an area having a minimum width of 500 feet for such sidelines as abut a lot which is also at least five acres in area, having a minimum width of 500 feet, provided further that no part of the structure is within 400 feet of the nearest residential boundary line.

k. For lots with an area of 40,000 square feet or larger, the minimum dimensions for Continuous Frontage, Depth, and Front Yard shall be those of the Residential Single Zone of comparable minimum area, i.e. RSA, RSB, or RSC.

l. One-third height of building, but in no case less than the side yard dimension for the Residential Single Zone of comparable minimum area, i.e. RSA, RSB, or RSC.

m. One-half height of building, but in no case less than the rear yard dimension for the Residential Single Zone of comparable minimum area; i.e. 25 feet if the area of the lot is 20,000 square feet or more, but not 40,000 square feet; 40 feet if the area of the lot is 40,000 square feet or more.

n. Conventional outdoor recreational facilities such as tennis courts, playgrounds, swimming pool, etc., may be considered as part of the Open Space requirement.

o to t. Reserved

u. No main entrance door(s) to any apartment building (as defined in Section 12 of this Bylaw) in a PCD, RM or any other Zoning District, shall be farther from a public or private way, vehicular access or parking area than 35 feet.

v. In an H District all portions of the lot within 10 feet from any adjoining residential district or within 75 feet from any street, except for driveways for access from a street, shall be maintained as landscaped open space in accordance with Section 6.3. In addition, any developed areas located within 50 feet from any adjoining residential property shall be screened by hedges or coniferous planting, having a height of at least 4 feet at the time of planting, by grading of at least 6 feet in height, by ornamental fencing at least 6 feet in height or by any combination of these methods, and any artificial lighting within such area shall be arranged and shielded so as to prevent direct glare from the light source onto adjoining property.

w. Deleted

x. In an AP District, a strip of landscaped buffer area at least 15 feet wide shall be maintained by means of a conservation restriction at all side and rear boundaries of the parcel. The front of said parcel shall have a landscaped area at least 20 feet deep. Such landscaped areas may be increased to 25 feet where in the opinion of the SPGA the relationship of the parcel in question to the surrounding land uses requires additional buffering. The criteria to be applied is that parking and service areas shall not normally be visible from a public or private way and from adjacent properties, other than through the access and egress ways to the parcel. Screen materials may include evergreen plants, which are characterized by dense growth which will form an effective year-round screen, or a fence, or a wall. Uses of terms shall be encouraged. Screening may consist of both natural and man-made materials. To the extent practicable existing trees shall be retained. Evergreen trees shall be so chosen that they will reach a mature height of 30 feet or greater, and shall have an average spacing of 15 linear feet between them. Understory plant materials must be at least 3 feet in height when planted, and trees must be at least 8 feet in height when planted. Height shall be measured from the finished grade. All required plant materials shall be permanently maintained in a healthy condition, and whenever necessary replaced with new plant material to insure continued compliance with screening requirements. All required fences and walls shall be permanently maintained in good repair and presentable appearance and whenever necessary they shall be repaired or replaced.

y. Deleted

z. Except where the existing residence was located or constructed on a lot, pursuant to a variance or special permit, a shed housing a heating or fuel oil storage tank may be attached to an existing dwelling in an RSA, RSB, RSC, and RG zoning district as a matter-of-right, notwithstanding the sideyard requirement presently applicable in any such district, provided such shed as constructed shall not extend a distance greater than 4 1/2 feet from the dwelling to which it is attached and all necessary permits required therefor shall be obtained, provided, however, that no portion of such shed shall be situated within 5 feet of any side yard lot line.

A shed for storage as an accessory use to a residence no larger than 10= x 12= x 10= high may be located at a distance less than the required setback, but no closer than six (6=) feet from a side or rear lot line in the RSA, RSA, RSA, and RG zoning districts, provided that such shed shall not be connected to utilities.

## **4.2 SPECIAL REGULATIONS**

**4.2.1 Split of Lot with Two or More Dwellings.** A lot or parcel of land containing two or more dwellings existing at the time of adoption of this Bylaw which cannot be divided in conformity with these requirements may, under a special permit from the Board of Appeals, be divided in a manner complying as closely as possible with these requirements.

**4.2.2 Minimum Lot Width in Residential General (RG) and Residential Single (RS) Zoning Districts.** No lot shall be laid out in an RG or an RS district unless it has a minimum width measured as follows: No portion of the lot between the dwelling or other primary structure and the street line of the front yard shall have a width, where width is defined as the shortest distance between the side lot lines, that is less than three quarters of the minimum required frontage.

**4.2.3 Fence.** No person shall erect a fence in excess of six feet in height without a special permit issued by the Special Permit Granting Authority having jurisdiction over the site.

**4.2.4 Corner Visibility.** At all street intersections in residential or limited business districts, a triangular sight protection area is hereby established, bounded by the exterior lines of intersecting streets and a line joining points on such lines which are twenty-five feet from their point of intersection (or in the case of a rounded corner, from the point of intersection of their tangents). Within that area, the following restrictions apply.

1. No buildings or portions thereof shall be located.
2. No nonbuilding structure and no open display, storage, or other open use shall be located unless the Building Commissioner determines that there will be no interference with traffic visibility across the corner.
3. Trees, shrubs, and other plantings shall similarly be located and trimmed to avoid interference with traffic visibility.

## **4.3 COVERED OPEN AIR FRONT PORCH**

**4.3.1 Intensity Requirements.** The Intensity Regulations requiring minimum front yard setbacks in residential districts shall not apply to a covered open air front porch, provided that no portion of the covered open air front porch shall be:

1. Enclosed by screen, glass or building walls;
2. Of a depth (including all roof lines and columns, but not stairs) greater than ten (10) feet or one-third (1/3) of the height of the principal residential structure to which it is attached, whichever is less;
3. Located closer to the front lot line than a distance in feet equal to sixty (60%) percent of the applicable front yard setback requirement; and
4. With the exception of the applicable front setback requirement, constructed in compliance with all other requirements of the underlying zone including, without limitation, side yard setback and lot coverage requirements.

#### **4.3.2 Design Requirements.**

1. The exterior materials shall be consistent or complementary in color, texture, and quality with those visible at the front of the principal residential structure, and otherwise consistent or complementary to neighboring structures and neighborhood character.
2. The base (from grade to deck level) shall not be solid, but shall be screened by lattice with openings no larger than two inches by two inches.
3. The roof shall be properly scaled and proportioned to the roof and architecture of the principal residential structure, have no less than a 3/12 slope, shall be attached to the front building wall of the principal residential structure. No second floor balcony, deck or enclosed construction of any kind shall be permitted above the roof.

#### **4.4 DOWNTOWN MIXED USE DISTRICT**

**4.4.1 General.** The following dimensional requirements shall apply in the DM District

##### **4.3.2 Minimum Lot Dimensions.**

1. Area: 10,000 square feet
2. Continuous frontage: 80 feet.
3. Depth: 120 feet.

##### **4.4.3 Minimum Yard Dimensions.**

1. Front yard: Fifteen (15') feet or, if less, the smallest front yard existing on any abutting lot having frontage on the same side of the same street, upon the issuance of a Special Permit by the SPGA based on a finding that such lesser setback will not be detrimental to the neighborhood.
2. Side yard: Ten (10') feet where premises abut a residential district, otherwise none required.
3. Rear yard: Twenty (20') feet.

**4.4.4 Maximum Percentage Building Coverage.** Including any accessory building: 60%.

**4.4.5 Maximum Height of Building and/or Structures.** Fifty (50') feet. However, height may be as much as sixty (60') feet if there are one or more existing buildings within 200 feet of the premises on a lot with frontage on the same side of the same street having a building height equal to the height of the proposed structure. For the purpose of the preceding clause only, the building height of existing buildings within 200 feet of the premises shall not include roof tanks and their supports, ventilating, air conditioning and similar building service equipment; steeples, chimneys, railings, skylights and other similar features of buildings; fixtures and equipment used for the wireless transmission and reception of radio signals, including but not limited to antennae, communication dishes and similar devices, monopoles, and lattice towers. No part of a building lying within twenty (20') feet of a residential district boundary may exceed forty (40') feet.

**4.4.6 Minimum Height of Buildings.** Building height for any new building shall equal at least thirty (30) feet.

**4.4.7 Open Space Requirement per Lot.** Ten (10%) percent which is landscaped and at grade level; provided that any structure in existence on January 1, 1987 may be altered and improved without increasing the open space in existence on January 1, 1987.

## **4.5 LIMITED COMMERCIAL DISTRICT**

**4.5.1 General.** The following dimensional requirements shall apply in the LC District.

1. Area: 40,000 square feet, but where adjacent lots in an LC District share a common driveway, or common access ways, any of the lots may have an area as low as 20,000 sq ft.
2. Continuous frontage: 200 ft., but where adjacent lots in an LC District share a common driveway, or common access ways, any of the lots may have a frontage as low as 120 feet.
3. Depth: 40 ft.



#### **4.5.3 Minimum Yard Dimensions.**

1. Front yard: 50 ft., but where the depth of an LC lot, measured at its point of greatest depth is 150 ft. or less, the front yard dimension may be one-third of the depth, but in no case less than 25 feet.
2. Side yard: 40 feet.
3. Rear yard: 40 feet.

**4.5.4 Maximum Building Coverage.** Including any accessory building: 20 %

**4.5.5 Maximum Height of Building and/or Structures.** 35 feet; however, if the State Building Code is more restrictive then such Code height limitations shall govern.

**4.5.6 Minimum Open Space Requirement per Lot:** 10%.

## **SECTION 5.0 NONCONFORMING USES AND STRUCTURES**

**5.1 APPLICABILITY.** These By-laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which these By-laws, or any relevant part hereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**5.2 NONCONFORMING USES.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines (in lieu of the criteria set forth in Section 11.6) that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

**5.2.1** Change or substantial extension of the use; or

**5.2.2** Change from one nonconforming use to another less detrimental nonconforming use .

**5.3 NONCONFORMING STRUCTURES.** The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines (in lieu of the criteria set forth in Section 11.6) that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Changes to single and two-family

structures shall be governed by Section 5.4, below. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

**5.3.1** Reconstructed, extended or structurally changed; or

**5.3.2** Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

**5.3.3 Variance Required.** Except as provided in Section 5.4, below, with regard to single and two-family residential structures, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance from the Board of Appeals; provided, however, the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

**5.4 NONCONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. For the purposes of this subsection, the term “reconstruction” shall mean the partial, not total, reconstruction of a structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure as long as such addition does not increase the habitable floor area of the original structure by more than fifty (50%) percent of the original structure:

**5.4.1 Insufficient Area.** Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements;

**5.4.2 Insufficient Frontage.** Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements; or

**5.4.3 Side Yard Encroachment.** Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

**5.4.4 Increase in Nonconforming Nature.** In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change because the above-stated criteria do not apply, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines (in lieu of the criteria set forth in Section 11.6) that the proposed modification will not be substantially more detrimental than the existing nonconforming

structure to the neighborhood.

**5.5 OTHER NONCONFORMITIES.** Noncompliance with site development requirements, such as parking, signage, landscaping, and lighting standards, does not make the premises nonconforming in use or structure, so changes, extensions, or alterations to existing uses and structures do not require a special permit simply because of such site development noncompliance. However, any change, alteration, or extension in use which increases the extent of noncompliance in site development may be allowed only on special permit, to be granted provided that the Board of Appeals determines that such change, alteration, or extension is not substantially more detrimental to the neighborhood than the existing condition.

**5.6 ABANDONMENT OR NON-USE.** Any nonconforming use or structure which has been abandoned, or not used for a period of twenty four months, shall lose its protected status and be subject to all of the provisions of this Zoning By-law.

**5.7 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION.** Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

**5.7.1 Two Years.** Reconstruction of said premises shall commence within twenty four months after such catastrophe or demolition.

**5.7.2 As of Right.** Buildings as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in height, volume, or area as the original nonconforming structure.

**5.7.3 By Special Permit.** In the event that the proposed reconstruction would (a) cause the structure to exceed the height, volume, or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

**5.8 REVERSION TO NONCONFORMITY.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **SECTION 6.0 GENERAL REGULATIONS**

### **6.1 OFF-STREET PARKING AND LOADING REQUIREMENTS**

**6.1.1 Purpose.** It is the intent of this Section that any use of land involving the arrival, departure, parking or storage of motor vehicles be so designed and operated as to assure safe access and departure as well as adequate off-street parking to serve the uses of such land. In addition, this section is intended to insure that safe movement of pedestrians is provided for, both

within the parcel and to adjacent parcels, and that necessary provisions are made for the safe use of such other means of transportation as may be reasonably expected to use a site. This section also has the additional purpose of providing minimum landscaping requirements for off-street parking facilities in order to preserve and increase the Town's health and safety.

**6.1.2 Applicability.** No building or structure shall be used or shall be changed to a greater category of parking demand as set forth herein, except in compliance with this Section 6.1.

1. Any existing building, structure or land use with its parking lot or facilities, if any, may continue its permitted operation or may be changed to a use within the same or lesser category of parking demand without having to conform to this Section. However, any building or structure or land use which changes its operation to a category of greater parking demand, as outlined herein, must comply with this Section.
2. Where an existing building or structure has been damaged or destroyed by fire or other disaster, and reconstructed to the same size or lesser size as previously existed, the parking facilities which serve that building or structure may remain the same size and dimensions as previously existed, and continue, even though they do not conform to the requirements of this Section, provided the building is not changed to a category of greater parking demand as set forth herein.
3. No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the number required by this Section.

**6.1.3 Table of Parking Requirements.** The following uses shall provide parking in accordance with the Table of Parking Requirements.

USE	REQUIRED SPACES
One and Two- Family Dwelling Units	2 spaces for each dwelling unit; driveways may be included as required space for single and two-family dwellings
Multifamily Dwellings	<p>One (1) space for one (1) bedroom or studio units, one and one-half (1 1/2) spaces for two (2) bedroom units, and two (2) spaces for units having three (3) or more bedrooms. All required spaces are to be provided within a distance not to exceed three hundred (300) feet from the building in which the specific family unit served is located.</p> <p>In a PCD District, parking lots shall not exceed 125 spaces in any one lot, and lots shall be at all points at least twenty-five (25) feet apart.*</p> <p>For an AP Cluster Development, the parking requirements shall be one (1) space for a studio unit, and two (2) spaces for one or more bedrooms.</p> <p>In a DM district there shall be one (1) space for a studio apartment, two (2) spaces for a 1 or 2 bedroom unit, and three (3) spaces for units having three (3) or more bedrooms, all of such spaces to be provided on-site.</p> <p>Note: Any housing which is specifically designed and constructed to meet the needs of the elderly may reduce the parking requirements for all such units by one-half.</p>
Permitted Home Occupations	Spaces shall be provided as required for the occupational uses specified herein in addition to the spaces required for the dwelling

Office	One (1) space per four hundred (400) square feet of gross floor area
Financial institutions, retail stores, personal services, shops, and similar commercial uses	One (1) space for each two hundred and fifty (250) square feet of gross floor area.  In the DM District, one (1) space for each five hundred (500) square feet of gross floor area
Furniture, machinery, equipment, automobile and boat sales and/or service establishments	One (1) space for each four hundred (400) square feet of gross floor area
Restaurants, night clubs, bars and lounges	One (1) space for each thirty (30) square feet of public area or One (1) space for every three (3) seats, whichever is greater.  In the DM District, One (1) space for every twenty-five (25) seats  “Public area” shall mean the area reserved for the general public for the actual consumption of food and beverages.
Drive-in restaurants	One (1) space for each fifty (50) square feet of gross floor area with a minimum of twenty (20) spaces
Areas with fixed seating, such as churches, assembly halls or stadiums	One (1) space for every three (3) seats
Places of public assembly or public recreation not otherwise listed	One (1) space for each five (5) occupants as permitted under the state building code
Libraries, museums and non-commercial art galleries	One (1) space for each one thousand (1,000) square feet of gross floor area
Hotels, motels, lodging or boarding houses	One (1) space for each unit available for occupancy. Where a restaurant, function rooms and cocktail lounges are included in a hotel or motel only one-half of the spaces normally required for such uses need be provided in excess of the spaces otherwise required for the hotel or motel
Hospital	One (1) space for each bed, plus 1 space for each two (2) employees on largest shift

Nursing home	One (1) space for each six (6) patient accommodations, plus 1 space for each two (2) employees on largest shift.
Funeral home	One (1) space for each seventy (70) square feet of public floor area, plus spaces required for any residence
Industrial plants, wholesale establishments, warehouses and similar buildings	One (1) space for each two thousand (2000) square feet of gross floor area, or 1 space for each three (3) persons normally employed on largest shift, whichever is greater
Theaters with single viewing screens	One (1) space for every 3 seats. Theaters with more than one screen 1 space for every 5 seats
Assisted living residences	0.5 spaces per living unit; provided that sufficient parking is also provided or banked to meet future parking requirements of the facility for its demonstrated alternative use, as set forth in Section 8.1

#### **6.1.4 Interpretation of Table of Parking Requirements.**

1. The parking required herein is in addition to space for storage of trucks or other vehicles used in connection with a business, commercial or industrial use.
2. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
3. The parking space requirements for a use not specifically listed in this Section shall be as specified by the Building Commissioner based on a listed use of similar characteristics of parking demand generation.
4. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately. Where a single parking area contains more than 400 adjoining parking spaces intended to serve more than one establishment dedicated to the retail sale of products or services to the general public, the total number of parking spaces required in excess of 400 may be reduced by 25%.
5. As used in Section 6.1.3, gross floor area shall mean the total floor area of all floors, including basements, within the perimeter of the outside walls of the building under consideration, with no deduction for hallways, stairs, closets, thickness of walls, columns

or other features. However, where a basement is used only for storage and not accessible to the public only one-fourth of such area need be included in the calculation of gross floor area.

6. In a commercial district where outside sales or storage space is provided, the square foot area shall be added to the gross floor area for the purpose of calculating the required number of parking spaces.

**6.1.5 Exceptions.**

1. *Dwelling units in Downtown Mixed Use and HOOP Districts.* Notwithstanding the minimum requirements set forth in Section 6.1.3, the parking requirements for dwelling units in the DM and any HOOP District may be reduced by special permit to a minimum number as follows: one (1) space for one (1) bedroom or studio units; one and one-half (1.5) spaces for two (2) bedroom units; and two (2) spaces for units having three (3) or more bedrooms, and upon commitment to payments according to Table 1, below, based on the difference in parking units provided and those required under Section 6.1.3.

**Table 1: Incremental Parking Credit Schedule**

<u>Required spaces less permitted spaces</u>	<u>One Time Mitigation</u>
Per whole space	\$16,000
Per half space	\$ 8,000

2. *Nonresidential Uses in the Downtown Mixed Use District.* Notwithstanding the minimum requirements set forth in Section 6.1.3, in a DM District the number of parking spaces required for nonresidential use may be reduced by special permit by not more than ten (10%) percent of the requirement of Section 6.1.3, conditioned upon the approval of the SPGA, and upon commitment to payments according to Table 2, below, based on the difference in parking spaces provided and those required under Sections 6.1.3.

**Table 2: Incremental Parking Credit Schedule**

<u>Required spaces less permitted spaces</u>	<u>One Time Mitigation</u>
Per whole space	\$20,000*
Per half space	\$10,000*

3. Said payments are due prior to the issuance of an occupancy permit. Payments received under the provisions of Section 6.1.5 shall be maintained in an offsite parking construction and acquisition fund from which monies may be expended under the direction of the Board of Selectmen for the sole purposes of new public parking construction and acquisition in the Downtown Mixed Use and/or any HOOP Districts.



4. In a DM District the SPGA may, as part of a special permit or site plan review for a change in use or expansion of prior use, in its discretion reduce the required number of parking spaces by an amount equal to the number of spaces by which the prior use is below the minimum number of spaces required for that use, as set forth in Section 6.1.21.

Any special permit issued under this section is subject to findings by the SPGA that the decrease in on-site parking is not substantially more detrimental than the requirements of the Zoning district.

5. The mitigation amounts set forth in Table 1 and Table 2, above, shall be effective upon passage of this By-law, but subject to an annual increase of 3% effective the first day of each fiscal year unless a lesser increase is determined by the Planning Board based on findings of land, construction and market values.

**6.1.6 Location of Required Parking Spaces.** Required parking spaces shall normally be located on the same parcel as the building or use which they serve. However, the SPGA may grant a special permit to allow use of parking facilities not on the same parcel provided that the SPGA determines that proper provision is made to insure pedestrian and traffic safety and that the intent and purpose of this Section are attained.

1. Except as hereinafter provided, no land in a Residential District shall be used for off-street parking accessory to or to service a structure or use in a Commercial and/or Industrial District, or a Highway Planned Use or a Highway Mixed Use District.

**6.1.7 Minimum Area.** An off-street parking space is an all-weather surfaced area having a width of not less than nine (9) feet and a length of not less than eighteen (18) feet for angle parking or twenty-two (22) feet for parallel parking. The length required shall be measured on an axis parallel with the vehicle after it is parked. The required areas, other than those serving one- and two-family dwellings, are to be exclusive of driveways and shall be permanently reserved for the temporary parking of one automobile, and shall be connected with a street or public right-of-way by an all-weather surfaced driveway. In the case of single-family and two-family dwellings, all-weather surfaces shall not be required.

**6.1.8 Pedestrian Safety.** Crosswalks shall be provided in selected locations and clearly marked on the pavement to aid pedestrians in crossing traffic within the lot. As a minimum, off-street parking areas shall be separated from the front of the building served by a paved walk at least four (4) feet wide with a seven (7) inch high safety curb located along the front of the building, or other safety devices as the Building Commissioner may specify.

1. Where there exists along an exterior side or rear wall, an entrance or exit normally used by the general public (excepting therefrom but not limited to fire doors and loading areas) such entrance or exit shall be provided with a paved walk at least four (4) feet wide with a seven (7) inch high safety curb extending at least six feet along the building on

either side of such entrance or exit.

**6.1.9 Interior Drives.** Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, the following being the minimum width permitted.

<u>Type of Parking</u>	<u>Driveway Width</u>
90 degree to 61 degree parking	Twenty four (24) feet
60 degree to 46 degree parking	Eighteen (18) feet
45 degree to 30 degree parking	Fifteen (15) feet
Parallel parking	Fifteen (15) feet

Ninety degree (90 degree) or parallel parking shall be used in all off-street parking lots unless there is positive control of traffic directions. Parking at angles at less than thirty degrees (30 degrees) is prohibited except for parallel parking. The minimum width of any interior driveway serving an off-street parking area shall be fifteen (15) feet.

**6.1.10. Entrance and Exit Driveways.**

1. Residence driveways shall not be less than nine (9) feet wide at the right-of-way line nor less than thirteen (13) feet at the curb line of lots for one or two-family dwellings.
2. Driveways in Residential Multiple, Downtown Mixed Use, Commercial II, Industrial I, Industrial II, Highway Planned Use, Highway Mixed Use I, Highway Mixed Use II, Highway Mixed Use III, and PCD Districts or serving uses allowed in these districts, shall not be more than forty-five (45) feet wide at the right-of -way line and fifty-five (55) feet wide at the curb line unless otherwise specified by the Natick Department of Public Works or the Massachusetts Department of Transportation. Each parcel within these districts, or occupied by such use, will be entitled to two (2) driveways where the property has two hundred (200) feet of frontage or less. Additional driveways may be allowed by special permit by the SPGA, or if none, by the Board of Appeals for lots with greater than two hundred (200) feet of frontage.
3. In all districts the entrance and exit driveways will be located so as to provide for safe access and egress to the parcel being served. In addition, evidence that the necessary driveway permits will be issued by either the Natick Department of Public Works for roads controlled by the Town, or Mass. DOT, Highway Division for roads controlled by the Commonwealth, must be presented before a building permit may be issued.

**6.1.11 Shared Driveways.** Two or more residential structures hereafter erected in any district, whether under an Approval Not Required plan or a special permit, shall not be served by a common or shared driveway unless a special permit is approved under Section 11.6 by the Planning Board. Specifications for a shared driveway shall be required which are adequate to serve the number of vehicles that will use it, and where more than two residential structures are

to be served such driveway shall meet minimum town Standards as found in the Subdivision Rules and Regulations.

1. Notwithstanding the foregoing, the Permit Granting Authority (PGA) or an SPGA, whenever they have a plan properly before them that shows a shared driveway, shall require such specifications, and may make any other requirement that it considers appropriate. It is the intention of this provision that shared driveways shall only be permitted where in the judgment of the PGA or the SPGA the shared driveway is the most appropriate to serve such residences.

**6.1.12 Marking.** All required parking spaces, except for single-family or two-family residences, shall be marked by painted lines, maintained in good condition, curbs or other means to indicate individual spaces. Signs or markers painted or provided and maintained in good condition shall be used as necessary to insure efficient traffic flow within the lot.

**6.1.13 Surfacing and Drainage.** In all parking areas other than those serving one-and two family dwellings, the following requirements for surfacing and drainage shall apply.

1. Adequate storm water drainage shall be provided for all off-street parking areas. With respect to off-street parking areas for ten or more vehicles, storm water drainage shall include provision of means to prevent or intercept, collect and/or filter any oil, grease or sediment that may be deposited in such parking area, in accordance with regulations of the Department of Public Works and Board of Health. Within six months of the effective date of this by-law, the Board of Health in accordance with the Department of Public Works shall adopt regulations to administer this by-law. Required parking and truck loading facilities shall have an all -weather surfacing of bituminous concrete or concrete paving maintained in good condition and capable of allowing free and safe movement of all vehicles using the facility. The perimeter of all parking areas shall have a machine-formed curbing at least five inches high or pre-cast concrete bumpers, safety curbs or other protective devices.

2. The following minimum specifications shall apply to all bituminous concrete paving. It shall be placed in two layers, a binder course to be one and one-half (1.5) inches thick after compaction and a top course one (1) inch thick after compaction, to form a total thickness of pavement equal to two and one-half (2.5) inches after compaction.

**6.1.14 Lighting.** Adequate lighting shall be provided in lots of more than ten (10) spaces if off-street parking spaces are to be used at night. However, minimum security lighting must be provided in all lots serving other than one-and two-family residential. The lighting shall be arranged and installed to minimize glare on adjacent property. If property is not to be used at night, a note to that effect shall be indicated on the plan.

**6.1.15 Truck Loading Space.** In the case of hospitals, institutions, hotels, and retail wholesale

and industrial buildings space shall be provided for loading and unloading of trucks at the rate of one (1) space not less than four hundred (400) square feet in area for each fifteen thousand (15,000) square feet of floor area or fraction thereof up to a total of thirty thousand (30,000) square feet, and four hundred (400) square feet for each additional thirty thousand (30,000) square feet. Such truck area shall be adjacent to the loading area or doors.

**6.1.16 Buffer Areas.** Any off-street parking or storage area serving other than one (1) and two (2) family dwellings which abuts residentially zoned land shall be separated from such adjoining land by a ten (10) foot buffer area which shall be suitably landscaped and maintained with natural and living materials so as to form an effective year round visual screen at least six (6) feet in height to insulate the residentially zoned land from the off-street parking area. Trees planted in this buffer area shall be at least six (6) feet in height and not less than two (2) inches in diameter immediately after planting. The SPGA, or if none, the Planning Board of Appeals may by special permit allow the use of a fence, wall or other non-living structure to achieve the purpose of this buffer provided that it is determined to be a more effective and suitable buffer than could be provided with living materials.

1. As a minimum all off-street parking and loading areas except those serving one and two family dwellings shall be separated from adjacent properties by a four (4) foot buffer strip planted with grass or similar natural ground cover. However, where adjacent parcels agree to share a common parking area with a common entrance and exit the minimum four (4) foot buffer may be eliminated on all common property lines.

**6.1.17 Landscaping Adjacent to Right-of-Way.** A continuous landscaped strip shall be provided adjacent to the right-of-way line of any street (existing, proposed, paper, public, private) or highway. This landscaped strip shall not be less than ten (10) feet wide in any district and in Highway Mixed Use II, Highway Mixed Use III, Commercial II, Industrial II and Highway Mixed Use I districts it shall have at least ten (10) feet of width for every one hundred (100) ft. or fraction thereof of frontage up to a maximum required width of fifty (50) feet. In a Highway Planned Use District, the landscaped strip adjacent to the right-of-way shall be at least 85 feet in depth. For other than one and two family uses this strip is to be planted with at least one (1) tree of not less than two (2) inch caliper and at least six (6) feet in overall height immediately after planting for each fifty (50) lineal feet of frontage or fraction thereof.

1. Said trees need not be located at fifty (50) foot intervals and may be grouped or arranged anywhere within this buffer area. Bituminous concrete or concrete paving is prohibited in this buffer area except for driveways and sidewalks.
2. The buffer adjacent to the right-of-way required by this Section must be located within the affected parcel and state or local property within the right-of-way may not be used to meet the requirements of this Section. However, wherever possible the extension of grass of ground cover into said right-of-way is encouraged.

**6.1.18 Interior Landscaping.** Off-street parking areas which cover 20 per cent or more of the

total site area shall have at least ten (10) square feet of interior landscaping for each parking space. As used herein, interior landscaping shall be defined as landscaped islands or areas, exclusive of any other landscaping or buffer areas required elsewhere in these Off-Street Parking and Loading Requirements, which are contained within or project into the paved area of an off-street parking or loading area. Each separate landscaped area shall contain a minimum of one hundred (100) square feet, shall have a minimum dimension of at least five (5) feet, shall be planted with grass or small shrubs, and shall include at least one deciduous tree of not less than two (2) inches in diameter and at least six (6) feet in overall height immediately after planting. Each such island shall have a five (5) inch curb and may be used to locate hydrants within a parking area.

1. Whenever possible, such interior landscaping shall be located so as to promote safe and efficient channelization of both pedestrian and vehicular traffic.

**6.1.19 Existing Landscaping Material.** Every attempt shall be made to save as many existing trees as possible on a subject site. Major trees and outlines of wooded areas shall be shown on the required site plan.

**6.1.20 Administration and Procedure.**

1. Permits. Where the requirements of these off-street regulations are applicable, an application for a building or use permit for other than one and two family dwellings must be accompanied by three copies of an Off-Street Parking and Storage Plan. The Building Commissioner shall determine whether such plan is in compliance with the provisions of this Section. If the Building Commissioner determines that the plan is not in compliance with this Section, he/she shall deny the application in writing setting forth his grounds for denial.
2. Off-Street Parking and Storage Plan. The Off-Street Parking and Storage Plan required by this Section shall be drawn to a scale of 1" = 40' or such other scale as the Building Commissioner may direct, and as a minimum shall show the following:
  - a. the quantity, location and dimensions of all driveways, entrances, exits, parking spaces, truck loading and storage areas, sidewalks, and buffer areas;
  - b. the location, size and type of materials for surface paving, curbing or wheel stops, trees, landscaping, screening, lighting and drainage facilities;
  - c. the location of all buildings and lot lines; and
  - d. such other information as the Building Commissioner or SPGA may reasonably require.

3. Upon issuance of a permit in accordance with these Off-Street Parking and Loading Requirements, the Building Commissioner shall transmit a copy of the approved plan to the Planning Board and the Department of Public Works.

4. Enforcement. Where necessary for the administration of this Section, the Building Commissioner may require the owner, operator or occupant of a lot or any building thereon to furnish a statement as to the number of employees customarily working at any one time on the premises. The Building Commissioner may at any reasonable time enter upon a lot, or into any building thereon, in order to make such determinations as are necessary for the administration of this Section.

**6.1.21 Special Permit.** The SPGA, after consideration of subsections 1-6, below, may grant a special permit to vary the requirements of this Section 6.1, except Section 6.1.5.

1. increases architectural accessibility;
2. accommodates mixed use on the parcel;
3. improves pedestrian and/or vehicular movements;
4. enhances the streetscape for abutting properties;
5. creates affordable housing; or
6. accommodates mass transit facilities.

## **6.2 SIGNS**

**6.2.1 Purpose.** This Section is adopted by the Town for the regulation and restriction of billboards, signs, and other advertising devices within the Town.

**6.2.2 Existing Signs.** This Section shall not require the alteration or removal of any sign lawfully existing within the Town on the date on which this Section becomes operative. Any sign, the erection of which has been lawfully begun and carried on in good faith before this Section becomes operative, may be completed according to laws and regulations then in force; but shall conform hereto as far as practicable without hardship.

### **6.2.3 Illumination.**

1. No sign shall contain any part which moves or flashes or be animated in any way.
2. No sign shall be illuminated more than thirty (30) minutes after closing, or before 8:00 A.M. on any day except for signs of business which are legally carrying on business before 8:00A.M. which may be illuminate while said businesses are actually open to

receive the public.

3. Signs identifying police or fire stations and residences of medical doctors, hospitals, nursing homes, and other such signs as the Board of Appeals may authorize, may be illuminated at other hours if the Board finds that the nature and use of the premises is such that illumination should be permitted in the public interest.
4. All illumination of signs must be so arranged as to prevent glare onto any portion of any public way or other adjacent property.

#### **6.2.4 Construction and Maintenance.**

1. No sign shall be painted or posted directly on the exterior surface of any wall or roof but all signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface which shall be securely affixed to the building. The foregoing, however, shall not prevent installation of an individual letter sign securely affixed to the exterior wall of building.
2. The material and construction of any sign and intermediary surface and the manner of affixation of the sign to the intermediary surface and the intermediary surface to the wall of the building shall be in accordance with any applicable provisions of the State Building Code and, otherwise, with the reasonable requirements of the Building Commissioner.
3. All signs, together with their structural elements, shall be kept in good repair and in a proper state of preservation to the reasonable satisfaction of the Building Commissioner. The Building Commissioner may order the removal of any sign that is not maintained in accordance with the provisions of this by-law.

#### **6.2.5 General Requirements.**

1. Removal. Any sign, together with its structural elements, which advertises or calls attention to any product, business, activities or services which are no longer carried on or sold, whether on, near, or adjacent to the particular premises shall be removed by the owner within thirty (30) days of the date on which the operation ceased.
2. Historic Signs and Markers. Signs and markers signifying historical importance shall not be subject to this By-law and shall be permitted in all use districts without permit so long as same contain not more than eight (8) square feet on each exposure.
3. Signs Related to Adult Businesses. Signs containing matter describing materials for sale, rental or display which are distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual conduct as defined in G.L.. Chapter 272, Section 31, or which depict, describe or relate to the provision of live entertainment which includes the display of nudity, or which convey the message that an establishment

includes the display of nudity or partial nudity by workers in the course of transacting business or delivering services, shall be prohibited in all districts except the RC district.

4. Term. Special permits issued under this Section shall have a term of not more than seven years.

#### **6.2.6 Sign Regulations in the Residential Districts.**

1. Accessory Signs. There may be one such sign for each lot, indicating only the name of the owner or occupant, the street number, and a permitted use or occupation in this particular area under this zoning by-law. Such a sign may be a standing sign but shall not exceed one (1) square foot, or where a permitted use occupation is set out, two (2) square feet in total area,

2. Temporary Signs. There may be one temporary unlighted sign on each lot advertising the sale, rental, or construction of the premises provided that such sign does not exceed six (6) square feet in area and shall be removed promptly after such sale, rental, or construction has been effected. No permit shall be required.

3. No sign shall be located nearer to a property line than it is lawful to maintain a building, or project more than six (6) inches in front of any established front line for buildings.

4. Subdivision and PCD Signs. A sign bearing the name of any residential or other subdivision or PCD may be erected at an entrance to such subdivision. Such sign shall be located not less than fifteen (15) feet from the layout of any street or lot line. The over-all area of the sign, exclusive of supports, shall not be greater than twelve (12) square feet and said sign may be lettered on both sides. No part of any subdivision sign shall be more than six (6) feet above the level of the roadway nearest the sign location. No subdivision or PCD sign shall be illuminated, nor shall any reflective material be used. The initial permit for any subdivision sign shall be for not more than two years and may be renewed annually upon application. Any sign for which there is no valid permit shall be removed under the authority of the Building Commissioner.

5. No other accessory sign shall be erected or maintained in a residential district.

#### **6.2.7 Sign Regulations in the Downtown Mixed Use District.**

1. Accessory Signs. In a DM District, area accessory signs that comply with the provisions hereinafter set forth are permitted. All other accessory signs are expressly prohibited. Nonaccessory signs are prohibited.

2. Location. The sign shall be affixed to a building, except as hereinafter provided. A sign attached to a building shall be securely affixed to one of the walls of the building and



it shall be parallel with and not project more than six (6) inches from the face of such wall and shall not project beyond the face of any other wall of the building.

3. Size. A sign shall not be more than two (2) feet in overall height with the total area not to exceed thirty (30) square feet.

4. Number. There shall not be more than one exterior sign for each business, except that if the business has a direct entrance into the business in a wall other than the business front, there may be a secondary sign affixed to such wall, and if the business has a wall, other than the business front, that faces upon a street or parking area, there may be a secondary sign affixed to such wall whether or not such wall contains an entrance to the business; provided however, that no business shall have more than two secondary signs in any event. The width of the secondary sign or signs shall not exceed one (1) foot in overall height or fifteen (15) square feet in total area. In addition to the foregoing sign or signs, there may be one directory of the occupants or tenants of the building affixed to the exterior wall of the building at each entrance to the building. Such directory shall not exceed an area determined on the basis of one (1) square foot for each occupant or tenant in the building.

5. Standing Signs. Standing signs are prohibited.

**6.2.8 Sign Regulations in the C-II, IN-I, IN-II, (HM-I, HM-II, HM-III, HPU, and LC Districts.** Accessory signs that comply with the provisions herein set forth are permitted. All other accessory signs are expressly prohibited.

1. Location: A sign attached to a building shall be securely affixed to one of the walls of the building and it shall be parallel with and not project more than twelve (12) inches from the face of such wall and shall not project beyond the face of any other wall of the building. No part of any standing sign shall be located within twenty-five (25) feet of any property line.

2. Temporary Commercial Signs. During construction of a building or buildings not more than one temporary sign may be erected on the premises where such construction is being carried on, identifying the building or buildings under construction and the builder, the intended occupant, the contractor and/or the architect of such building or buildings. All such signs shall be removed within thirty (30) days after the completion of construction. In no case shall any such temporary sign have a total area greater than twenty-five (25) square feet or have any part which is more than ten (10) feet above ground. No permit shall be required..

3. Where the building setback does not exceed 200 feet, a sign shall not be more than two (2) feet in overall height with the total area not to exceed eighty (80) square feet. A standing sign shall not be more than ten (10) feet in overall height with a total area not to exceed fifty (50) square feet. Where the building setback exceeds 200 feet, a sign shall

not be more than three (3) feet in overall height with the total area not to exceed one hundred eighty (180) square feet except for a standing sign which cannot be more than ten (10) feet in total height with the total area not to exceed fifty (50) square feet.

4. Number: No business shall have more than one (1) sign affixed to any exterior wall of its place of business nor shall it have more than three (3) signs in all, including one (1) standing sign. There shall be no more than one (1) standing sign on any lot, regardless of the number of businesses or structures which may be located on the lot.

#### **6.2.9 Sign Regulations in the HPU Districts.**

1. Arcade or Courtyard signs: As used herein, the term "Arcade" and "Courtyard" mean pedestrian areas not enclosed within a building in which vehicle traffic does not enter and bordered on at least two sides by buildings: such areas being set back at least 300 feet from the street along which frontage is measured. The Board of Appeals may allow a reasonable number of project directories, directional signs and business identification signs each not to exceed fifty (50) square feet in area in a courtyard or arcade; in keeping with the architectural, geographic or theme image of a project. Such signs may project from a building into the arcade or courtyard, be suspended from or form free-standing architectural or structural elements of a project; as well as being affixed to walls of a building or structural element within the arcade or courtyard area; all in keeping with the style and character of a project. Business identification signs shall be limited to the trading name and/or established logotype of a business and shall not include brand name slogans or advertising verbiage, unless such are also the trading name.

2. Exterior Signs. In addition to any signs otherwise permitted under this Section, signs consisting of the name and/or logotype of a project, which are mounted on a wall of a building or on an architectural or structural element of a project, shall be not more than three (3) in height and 150 square feet in area. In applying these size limitations, only the area of the wall or architectural or structural element encompassed by each individual word or logotype "envelope" shall be deemed to constitute the sign area.

**6.2.10 Application for Permits.** Before the erection, removal, alteration, enlargement or repair (except for ordinary maintenance) of any sign shall begin, the owner or lessee of the premises on which the same is to be erected shall file with the Building Commissioner an application in duplicate for a permit, on appropriate forms furnished by the Building Commissioner, together with such plans, drawings and specifications as the Commissioner may require. An application for a permit shall give the full name, residence and business address of the owner of the property, of the lessee (if any) and of any authorized representatives to whom any notices may be sent. Each application must be accompanied by the written consent of the owner of the premises concerned, or his authorized agent.

1. Issue, Refusal and Revocation of Permits and General Powers of the Building Commissioner. The Building Commissioner shall approve or reject any sign application

and, if all requirements of this Section and of all other applicable laws, by-laws and regulations have been complied with, shall promptly issue a permit for the erection and maintenance of such sign. If, however, such sign contains any electrical devices the exercise of such permit shall be conditional upon receipt by the applicant of prior written approval of such sign from the Town Electrical Commissioner given after physical inspection by him of all electrical devices contained in said sign.

2. Appeal and Review. Any person aggrieved by the issuance or refusal of a permit or approval by the Building Commissioner may appeal to the Board of Appeals within thirty days after the date of the issuance or refusal by filing a written notice of appeal with the Board of Appeals and the Town Clerk, on a form approved by the Board of Appeals. The Board shall conduct a hearing in accordance with G.L. c. 40A, ss. 8 and 15.

3. In granting such special permit, the Board shall specify the size, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

4. Penalty for Violation. In addition to any other remedy granted or penalty imposed by law, whoever being in violation of any provision of this Section shall fail to remedy such violation within five (5) days after the receipt of a notice of such violation given by the Building Commissioner or the Board of Selectmen (or if such violation cannot reasonably be remedied within five days, shall fail within such period to begin to remedy the same and thereafter continue diligently until such violation is remedied) shall be punished by a fine not exceeding twenty (20) dollars for each such violation, and each day during which such violation shall continue shall be deemed a separate violation.

**6.2.11 Special Permit.** The SPGA may grant a special permit for a sign not complying with the provisions of this By-Law, if it determines that the particular sign will be in harmony with the general purpose and intent of this Section will not be substantially more detrimental to the neighborhood in which such sign or signs are to be located nor to traffic and safety conditions therein, nor otherwise detrimental to the public safety and welfare.

## **6.3 OUTDOOR LIGHTING**

**6.3.1 Purpose.** The regulation of outdoor lighting is intended to

1. Enhance public safety and welfare by providing for adequate and appropriate outdoor lighting;
2. Provide for lighting that will complement the character of the town, reduce glare, minimize light trespass, and reduce the cost and waste of unnecessary energy consumption.

**6.3.2 Applicability.** The requirements of this Section shall apply to outdoor lighting on lots and parcels in all districts but shall not apply to: one and two family dwellings on lots on which they are the principal use, or street lighting, lights that control traffic or other lighting for public safety on streets and ways. When an existing outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this Section.

**6.3.3 Lighting Plan.** Wherever outside lighting is proposed, every application for a building permit, a special permit, site plan approval, a variance, or an electrical permit, shall be accompanied by a lighting plan which shall show:

1. the location and type of any outdoor lighting luminaires, including the height of the luminaire;
2. the luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
3. the type of lamp such as: metal halide, compact fluorescent, high pressure sodium; 4. a photometric plan showing the intensity of illumination at ground level, expressed in foot candles; and
5. that light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.

**6.3.4 Control of Glare and Light Trespass.**

1. Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.
2. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices as are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.
3. Paragraph 1, above, shall not apply to any luminaire permitted by a SPGA and intended solely to illuminate any freestanding sign or the walls of any building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.

**6.3.5 Lamps.** Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This paragraph shall not apply to temporary decorative

lighting which may include colored lamps, such as holiday lighting.

**6.3.6 Hours of Operation.** Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the following exceptions: if the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases; low level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 am, provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

**6.3.6 Special Permit.** The SPGA may grant a special permit modifying the requirements of this Section, provided it determines that such modification will not be substantially more detrimental to the neighborhood. Special permits issued under this Section will have a term of seven years unless otherwise specified by the SPGA.

## **6.4 OPEN SPACE AND LANDSCAPING**

**6.4.1 Purpose.** The requirements and standards set forth in this Section are intended to

1. Achieve specific performance objectives;
2. Enhance the visual quality of the areas within the Highway Overlay Districts;
3. Encourage the creation and protection of open space;
4. Avoid expansive development of impervious surfaces;
5. Protect and preserve the area's ecological balance; and
6. Ensure that landscaping is an integral part of development.

**6.4.2 Applicability.** The requirements of this Section shall apply to any new structure, and to any major alteration, to any change of use of an existing structure, or as may be otherwise required in this By-Law.

**6.4.3 Technical Requirements.** All site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect, unless waived in accordance with Section 6.4.15.

**6.4.4 Landscape Plan; General Standards.** Landscape plans shall show compliance with the following general standards:

1. Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways

and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.

2. Buffer strips adjoining or facing residential zoning districts or uses shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.
3. Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.
4. All required landscaping shall be located entirely within the bounds of the parcel.
5. To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

**6.4.5 Landscaped Buffer Strips.** In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein or in the Rules and Regulations of the Planning Board, and shall be continuous except for required vehicular access points and pedestrian circulation facilities, including sidewalks. All required landscaping amenities shall be located within the bounds of the parcel. All signs to be constructed in any development subject to Site Plan Review under the Highway Overlay District Regulations shall be subject to the issuance of a special permit by the Planning Board.

1. Depth. Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third (1/3) of the distance between the street right of way and any building line, but shall not be less than fifteen (15) feet in depth, and need not be greater than fifty (50) feet in depth. Sidewalks shall be excluded from calculation of the buffer depth, unless required by the development plan and not located in the public right of way. Landscaped buffer strips adjoining or facing residential districts or uses shall be a minimum of fifteen (15) feet in depth.
2. Composition. The buffer strip shall include a combination of deciduous or evergreen trees and lower-level elements such as shrubs, hedges, grass, groundcover, fences, planted terms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

3. Arrangement. Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements.
4. Opaque Screens: An opaque screen may be comprised of walls, fences, terms, shrubs or evergreen plantings, or any combination thereof. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens.
5. Terms. When terms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three (3) feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.
6. Mulch. When used in required landscaping or buffers, mulch shall be limited to bark mulch and decorative stone, or equivalent materials. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

**6.4.6 Standards for Landscaping within Off-Street Parking Areas.** Parking areas shall be broken into sections. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands". Terminal islands shall be used either to separate parking spaces from driveways and other vehicular travel lanes, or to break up large numbers of parking spaces in a single row of spaces. Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes.

**6.4.7 Landscaping Adjacent to Buildings.** Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five (5) feet from the building.

**6.4.8 Design for Pedestrian Circulation.** Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.

**6.4.9 Pedestrian Circulation in Parking Facilities.** Parking facilities and appurtenant

driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site. Pedestrian walkways shall be integrated, to the maximum extent possible, into the interior and/or perimeter landscaping of parking lots; and shall be constructed with a paved or similarly firm surface, separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

**6.4.10 Pedestrian Circulation Adjacent to Buildings.** A pedestrian walkway having a minimum width of six (6) feet shall be integrated into, and shall be in addition to, any required landscaped area adjacent to buildings.

**6.4.11 Pervious Landscaping.** Up to five (5) per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

**6.4.12 Maintenance.**

1. The owners and developers of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
2. Appropriate water management procedures shall be followed to serve all landscaped areas.
3. The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two (2) growing seasons following completion of planting.

**6.4.13 Intersection Sight Distance Restrictions.** Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half (2-1/2) feet above curb level and a plane seven (7) feet above intersecting roadway levels within the zone required for site distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

**6.4.14 Occupancy Permits.** No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days has elapsed since the filing of a written request for such approval with the Building Commissioner and Planning Board.



1. In cases where, because of seasonal conditions or other unforeseen circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon the approval of the Planning Board, provided that the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained. The amount of the escrow payment shall be set by the Planning Board and shall be equal to the full remaining estimated cost of materials and installation, with allowance for escalation and contingencies.

2. Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan. applicable this minimum open-space-per-lot requirement applies specifically to the front yard. All landscaped areas, including lawns, trees, shrubs and other plantings shall be properly maintained thereafter in a sightly and well-kept condition. On a lot of at least five acres, and situated in a CII District, if 10% of the area between any street on which the lot abuts, and the line of the building thereon, is devoted to open space, for each additional 85 feet of setback of the building on that lot, the open space requirement of 10% of that lot may be reduced by 1% to not less than 5%, provided the lot is not located within 400 feet of a residential boundary line.

**6.4.15 Special Permit.** The SPGA may grant a special permit modifying the requirements of this Section, provided it determines that such modification will not be substantially more detrimental to the neighborhood.

## **6.5 GENERAL PERFORMANCE STANDARDS**

**6.5.1 Applicability.** The following performance standards shall be utilized by the SPGA in addition to any specific standards prescribed elsewhere in this By-Law, or in the Rules and Regulations of the SPGA or PGA, in reviewing all site plans, special permits, and variance applications. These standards are intended to provide guidance to the applicant in the preparation of plans as well as guidelines for review. These are not intended to be exhaustive, and specific additional standards may be applied for a project if in the opinion of the SPGA or PGA such are reasonably necessary. The standards are not intended to discourage creativity, invention and innovation; but are intended to encourage good design and exemplary projects offering solutions to all problems of a site, where possible. The issues and concerns represented by the standards enumerated below must be addressed to the satisfaction of the SPGA or PGA in any approval.

**6.5.2 Nuisance Prohibited.** No use shall be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, dust, glare, odor, fumes, smoke, gas, sewage, refuse, noise vibration, or danger of explosion or fire.

**6.5.3 Preservation of Landscape.** The landscape shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist, or has been removed, new planting may be required. Finish site contours shall depart only minimally from the character of the natural site and the surrounding properties.

**6.5.4 Relation of Buildings to Environment.** Proposed development shall be related harmoniously to the terrain and to the use, scale and siting of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All buildings and other structures shall be sited to minimize disruption of the topography. Strict attention shall be given to proper functional, visual, and spatial relationship of all structures, landscape elements and paved areas.

**6.5.5 Open Space.** All open space (landscaped and useable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility to persons passing the site or overlooking it from nearby properties.

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

**6.5.7 Surface Water Drainage.** Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system, nor obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas. All surface water drained from roofs, streets, parking lots and other site features shall be disposed of in a safe and efficient manner which shall not create problems of water runoff or erosion on the site in question or on other sites. Insofar as possible, natural drainage courses, swales properly stabilized with plant materials, or paving when necessary, and drainage impounding areas, shall be utilized to dispose of water on the site through natural percolation to a degree equivalent to that prior to development. Also, appropriate control measures shall be employed which include: maximum slope requirements, slope stabilization measures including seeding of exposed areas to replace vegetative cover.

**6.5.8 Groundwater Recharge and Quality Preservation.** Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drain pipes, pervious pavement, reduction of paved areas, reduction of building coverage, etc.; or to improve quality, such as installing grease traps or gas/oil separators. Where the groundwater elevation is close to the surface, extra site-grading

precautions may be required to maintain the protective function of the overburden.

**6.5.9 Utilities.** The placement of electric, telephone and other utility lines and equipment, such as water, sewer or gas, shall be underground; and so located as to provide no adverse impact on the groundwater levels, and to be coordinated with other utilities. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated precisely on the plans.

**6.5.10 Advertising.** All signs and outdoor advertising features shall be reviewed as an integral element in the design and planning of all development on the site. As a minimum all signs and advertising devices shall be in conformance with Section 6.2, and the provisions thereof shall be administered by the SPGA having responsibility for the Site Plan Review Procedure.

**6.5.11 Other Site Features.** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings, or other screening methods as shall be reasonably required to prevent their being a hazard or being visually incongruous with the existing or contemplated environment and the surrounding properties.

**6.5.12 Safety.** With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and to maximize accessibility by fire, police, and other emergency personnel and equipment.

**6.5.13 Special Permit.** The SPGA may grant a special permit modifying the requirements of this Section, provided it determines that such modification will not be substantially more detrimental to the neighborhood.

## **SECTION 7.0 SPECIAL REGULATIONS**

### **7.1 REMOVAL OF EARTH PRODUCTS**

**7.1.1 General.** In any district except an authorized sand or gravel pit the removal from the property of soil, loam, sod, peat, sand or gravel is prohibited, except that the removal of said material may be permitted subject to the issuance of a building permit by the Building Commissioner and only to the extent of excavating for a building foundation, structure, roadway, driveway, walk, or parking area and only if at least an eight-inch layer of packed loam or the total loam and topsoil excavated in the project, whichever is less, is left covering all regraded area of the lot.

1. Pre-existing Removal. Pre-existing use of premises for the excavation or removal of sand and gravel can be continued and extended throughout the premises. Opening of new sand or gravel pits may be authorized by the Board of Appeals by special permit provided

such excavations are not harmful or detrimental to the neighborhood. The Board of Appeals may impose time limitations and may require bonds and a continuation of such special permit may be conditioned upon compliance with the regulations to be made and amended from time to time.

**7.1.2 Removal from Town.** In no case shall said material be removed from the Town. Removal of topsoil other than specifically permitted in this by-law is classified as stripping and is prohibited.

## **7.2 DRIVE-THROUGH WINDOWS**

**7.2.1 Special Permit Required.** A drive-in or drive-through window may be permitted on special permit by the Planning Board provided it complies with the following technical requirements and the special permit criteria listed in Section 11.6

### **7.2.2 Requirements.**

1. Only one drive-through window per building is allowed, but a drive-through window may service more than one vehicle at a time.
2. Drive-through entrances and exits shall be located at least 25 feet from any intersection or pedestrian crosswalk and will require the approval of the Superintendent of Public Works and the Traffic Safety Officer.
3. An aisle that is separate and distinct from any other on-site maneuvering aisle or fire lane shall be provided to channel drive-through traffic to the drive-through window.
4. Sufficient vehicle stacking space to accommodate waiting traffic will be provided in the drive-through aisle. The proponent is required to provide supporting data from an accredited source which substantiates the calculated vehicle stacking length.
5. An opaque fence or screen may be required at the discretion of the Planning Board along the property lines closest to the drive-through window to obscure the window's visibility from adjacent properties. The required fence or screen must not interfere with the safe flow of traffic into and out of the site.
6. Outdoor speaker location will be at least 50 feet from residential property lines, and general design requirements for noise and lighting shall comply with Section 6.3.

## **7.3 WIRELESS COMMUNICATION FACILITIES**

**7.3.1 Purpose.** The purpose of this Section is to assure that wireless communication facilities may be provided by special permit with minimal harm to the public health, safety and general

welfare. More specifically, it is desired to minimize the overall number and height of such facilities to only what is essential in order to provide for the rendition of wireless communication services within the Town, and to promote the shared use of such facilities in order to reduce the number of new facilities.

**7.3.2 Authority.** These regulations are specifically permitted under Title 47 (Telegraphs, Telephones and Radiotelegraphs) of the United States Code, Chapter 5 (Wire or Radio Communication), Subchapter III (Special Provisions Relating to Radio), Part I (General Provisions), Section 332 (Mobile Services), c) [Regulatory treatment of mobile services], (7) [Preservation of local zoning authority].

**7.3.3 Special Permit Required.** No Free-Standing WCF or Building-Mounted WCF may be erected or installed except upon the issuance of a Special Permit by the Planning Board acting as the Special Permit Granting Authority (SPGA) in accordance with Section 11.6. The Planning Board shall adopt Rules and Regulations regarding the construction, installation, maintenance and removal of WCFs. Such Rules and Regulations shall include a requirement that the Planning Board employ the services of technical consultants who are expert in the site selection and coverage for WCFs, who are expert in the field of RF radiation, who are structural experts having experience in WCF tower design, and who otherwise are sufficiently conversant with wireless industry technology to be able to evaluate any proposal for a WCF. The cost of the services of such consultants shall be borne by the Applicant.

**7.3.4 Federal Requirements.** A WCF monopole tower and its associated structures and accessory equipment shall be located in accordance with the Federal Communication Commission (FCC) and the Federal Aviation Administration (FAA) regulations in effect at the time of its construction. The operation of such WCF shall comply with all requirements of these agencies in addition to the requirements of this By-law.

**7.3.5 Location.** Location of any new WCF shall be in a technically suitable space available on an existing communications tower, or on or in an existing building or structure, either as a first installation or as a co-location, within the geographic area that the new WCF site is to serve. The applicant shall include in its application a description of its efforts in this regard, which as a minimum provides information that less visually obtrusive sites have been considered as part of the site selection process for potential sites, such as church steeples, street lights, clock towers, electric transmission towers, water tanks, and rooftops.

**7.3.6 Free-Standing WCF.** Should the applicant desire to locate a new FSWCF, after exhausting all opportunities for location on or in an existing building or structure, or on an existing tower, then the applicant must seek to locate such new FSWCF in areas where it is permitted under this By-law.

**7.3.7 Finding.** Before issuing a Special Permit for a free standing WCF the Planning Board must make a finding that all existing or approved WCF facilities cannot technologically

accommodate the WCF requested, or evidence has been received that permission to locate on such facilities has been denied by the owner thereof, preferably in a writing, a copy of which has been submitted to the Planning Board.

**7.3.8 Dimensional Requirements for Free-Standing WCF.**

1. Height. The maximum height of a Free-Standing WCF Structure shall be 125 feet.
2. Setback. A Free-Standing WCF shall be set back a minimum distance of 125 feet from any property line on the lot on which it is located, and shall not be located closer than 200 feet to any residence or to any structure accessory to such residence. No setback requirements shall apply to Building Mounted WCFs, to Indoor WCFs, to accessory WCFs or to ground mounted WCFs, provided however that the dimensional and intensity requirements of the underlying zoning district shall continue to apply to the building or structure in or on which the WCF is mounted.

**7.3.9 Landscaping and Screening.** Existing on-site vegetation shall be preserved to the maximum extent practicable. WCFs shall be located on the landscape or on a structure in such a manner so as to minimize visibility from abutting streets and residences. Additional landscaping or screening may be required, if necessary to accomplish minimizing visibility from abutting streets and residences while still permitting the WCF to carry out its functions.

**7.3.10 Authorization by Property Owner.** Applicants proposing to construct a WCF on land or structures, including Federal, State or municipally owned land or structures, shall provide evidence of authorization from the owner of such land or structure having the authority to extend such authorization and having control of such land or structures. Such evidence shall include a copy of the lease entered into between the applicant and the owner or Federal, State or Town Agency.

**7.3.11 Fencing.** Fencing shall be provided to control access to and to secure a free standing WCF site. Fencing in residential areas shall not be of barbed or razor wire material.

**7.3.12 Signs.** There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner of the WCF can be reached on a twenty-four (24) hour, 7 days per week basis. All signs shall conform to the requirements of Section 6.2.

**7.3.13 Lighting.** Lighting of the WCF shall be prohibited except as may be required by the Federal Aviation Administration (FAA). Notwithstanding the foregoing, lighting may be permitted to the extent that it is needed for emergencies.

**7.3.14 Parking.** There shall be a minimum of one (1) parking space for each WCF facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.

**7.3.15 Utilities.** All electric and other utility lines servicing a WCF, including network hard wire interconnections from the WCF, shall be via underground lines.

**7.3.16 Exemptions.** Facilities for the purposes set forth in G.L. c. 40A, Section 3, and the following types of WCF are exempt from the provisions of this Section.

1. **Amateur Radio Towers.** Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that any tower employed is not used or licensed for commercial purposes.
2. **Household Uses.** A device for customary household use such as a conventional chimney mounted television antenna, or a home satellite dish used in conjunction with a single or two-family dwelling.
3. **Public Safety.** Towers and antennas used exclusively for non-commercial, public safety purpose by a Town Agency. Provided, however, that a Town Agency may locate a commercial antenna or antennas on a public safety tower if authorized by special permit issued in accordance with this Section.

**7.3.17 Expansion of Use.** Any proposed extension in the height, addition of cells, antennae or panels, construction of a new WCF, or replacement of a WCF, shall be considered to be a change in a material respect of a previously issued special permit requiring a new application for an amendment or modification to the special permit in the same manner as provided for obtaining initial approval.

**7.3.18 Annual Certification.** Annual certification demonstrating continuing compliance with the standards specified in this Section and the standards of the FCC, FAA and the American National Standards Institute (ANSI), and compliance with required maintenance and any conditions of the special permit, shall be filed with the Building Commissioner and the Planning Board by the special permit holder on or before January 1st of each year of operation.

**7.3.19 Unused Facilities.** All obsolete or unused WCF or parts thereof or accessory facilities and structures which have not been used for six (6) months shall be dismantled and removed at the owners expense within thirty (30) days after notification by the Building Commissioner.

**7.3.20 Security.** The Planning Board may require as a condition of the issuance of a special permit an acceptable form of security to provide a performance guarantee for compliance with the requirements of the WCF Overlay District, to cover the costs needed to evaluate whether the WCF is still being used, and to remove unused facilities, and to restore the area to its original condition. Any amounts remaining from such security will be returned to facility owners after successful removal and restoration.

**7.3.21 Expiration.** Special permits granted for a WCF shall be limited to a term of five (5) years but not to extend beyond the FCC license period granted to the Applicant. The Applicant may file to renew or extend its special permit, but must file for such renewal or extension when seeking a renewal or extension of its FCC license. This will allow periodic review by the Planning Board to evaluate permit conditions reflecting advances in knowledge, experience and technology so that improved technology may be substituted for that initially permitted hereunder.

**7.3.22 Technology.** A WCF monopole shall be designed to accommodate the maximum number of uses technologically practical. WCF equipment shall be downsized to the extent practicable, as technology advances. Such WCF equipment shall be removed when no longer needed to fulfill the current FCC license requirements.

**7.3.23 New Owner.** All conditions and requirements of the special permit issued hereunder, and all requirements of the Planning Board Rules and Regulations regarding WFCs shall be transferred to any new owner of a WCF site.

## **SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS**

### **8.1 ASSISTED LIVING RESIDENCES**

**8.1.1 Purpose.** The purpose of this Section 8.1 is to provide a residential environment that offers supportive services to individuals 55 years of age or older who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life.

**8.1.2 Applicability.** The Planning Board, acting as Special Permit Granting Authority (SPGA), may grant a special permit in accordance with Section 10.4 for the construction of an Assisted Living Residence (ALR).

**8.1.3 Standards.** The SPGA may grant a special permit under the following standards and requirements.

1. The ALR shall provide residences of no more than two bedrooms each exclusively to meet the needs of seniors and the elderly together with their spouses, surviving spouses, and resident staff.
2. Such facility may include common areas and community dining facilities, and may provide personal care services, activities of assistance with daily living, and other related programs and services. This may include, but is not strictly limited to, meal care services, beauty salon, sundry shop, and banking and recreational facilities. Space designated for accessory uses may not exceed ten (10) percent of total floor area.
3. At the time of application, the Applicant must demonstrate to the satisfaction of the



SPGA the feasibility of future conversion of the facility to a use permitted for the zoning district.

4. The SPGA, in order to approve the Special Permit/Site Plan Approval for an ALR, must find that the overall impact of the facility will not substantially derogate from the cumulative impact associated with other uses allowed as a matter of right or by special permit within the zoning district.

5. Number of Living Units: The number of living units allowed in an ALR shall not exceed 30 living units per acre (43,560 sq. ft.).

6. Intensity Regulations: The Assisted Living Residence (ALR) is subject to the intensity regulations pertinent to its zoning district, as set forth in Section 4.0.

7. Preserved Open Space: It is desirable that open space that is created for use in conjunction with the facility is retained as a visual amenity for neighbors and to residents of the Town.

8. Affordability Requirements: Unless a determination has been made satisfactory to the SPGA that the living units of the ALR do not affect the Town's Subsidized Housing Inventory (SHI) as maintained by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD), the Applicant shall make a one-time payment to the Affordable Housing Trust Fund of Natick in an amount equal to a formula of \$5 multiplied by the total number of square feet of area in living units in the ALR. This payment shall be required notwithstanding the fact that the Town may have reached an exemption level of production of affordable units in any year.

**8.1.4 Procedures.** The procedures to be followed in obtaining approval for an ALR are as follows:

1. Pre-application: The Applicant is encouraged to meet with the Community Development Director and the SPGA prior to the preparation of a formal application, for general discussion of the project to be proposed.

2. Formal application: The Applicant shall submit a plan for the overall development, including a final site plan showing the final completed development in all phases as contemplated on the site at the time of application, regardless of the number of phases in which it may be constructed. Said application shall include at a minimum a completely designed first phase of development. The application shall be filed in the name of the Applicant. The Applicant must either own or submit authorization in writing to act for all of the owners of the ALR parcel prior to submitting a formal application. The application for a special permit shall be filed by the applicant with the Town Clerk and a copy of said application, including the date and time of filing certified by the Town Clerk, shall be

filed by the applicant with the SPGA.

3. Further procedures: Once a special permit is issued, no changes to the final site plan, exclusive of minor modifications as determined by the SPGA, shall be made without applying for a modification of such special permit.

**8.1.5 Modification and Waiver.** The SPGA may modify and/or waive strict compliance with one or more of these requirements, regulations, and objectives set forth in this Section, provided that it makes a specific finding in writing that a waiver and/or modification will not create conditions that are substantially more detrimental to the neighborhood in which the parcel is located than if the waiver and/or modification were not granted.

## **8.2 FAMILY SUITES**

**8.2.1 General.** A family suite may be located in a dwelling in an RS district which is the primary residence of the owner of such dwelling upon the issuance of a special permit granted by the SPGA. The SPGA shall include a condition in their Special Permit that the residents of the family suite must be related to the owner(s) of the single-family dwelling and that the primary dwelling unit remains the primary residence of the owner of the dwelling throughout the period of occupancy of the family suite lease information.

**8.2.2 Standards.** A family suite shall comply with the following standards:

1. The family suite shall be subordinate in size to the primary dwelling unit.
2. The family suite shall be constructed in a manner that maintains the appearance of a single-family dwelling.
3. The family suite and the primary dwelling unit shall be fully integrated and shall be contiguous with each other.
4. The family suite may share living areas within the single-family dwelling with the primary dwelling unit.
5. The family suite and the primary dwelling unit shall share utilities.
6. The size of the family suite shall not exceed 25% of the area of the primary dwelling unit but shall not be larger than 700 square feet (calculation not to include common areas).
7. The family suite shall be limited to one bedroom.
8. The family suite shall be limited to a galley kitchen with minimal amenities.

9. The family suite shall share a front entry and mail address with the primary dwelling unit, although a separate side or rear door may be permitted.

10. The design must allow for the future conversion of the Suite to an addition to the single-family dwelling. The SPGA must review and approve the plans for such single family dwelling at the time that the family suite is included in the building.

**8.2.3 Parking.** Parking shall be as required by Section 6.1.3 and the units shall be accessed by the same driveway.

**8.2.4 Dimensional Requirements.** All dimensional requirements shall be met except that if the existing primary dwelling unit does not conform to all dimensional requirements, the family suite may be approved so long as the family suite will not increase the primary dwelling unit's pre-existing nonconformity with dimensional zoning requirements.

**8.2.5 Occupancy.** The SPGA shall specify by name(s) in its permit who is permitted to reside in the family suite. Any changes in occupancy shall require a modification or revision of the lease and a modification of the special permit which must be approved by the SPGA.

**8.2.6 Covenant and Recording.** The single-family dwelling owner(s) shall covenant to their abutters that they will not use the property as a two-family dwelling. This covenant shall be recorded at the Middlesex South Registry of Deeds and shall be indexed to the deed for the single-family dwelling. The decision of the SPGA shall be recorded at the Middlesex South Registry of Deeds and a copy of the recorded decision shall be provided to the SPGA and the Building Department before an occupancy permit can be issued.

### **8.3 INCLUSIONARY HOUSING OPTION PROGRAM (IHOP)**

**8.3.1 Inclusionary Housing Option Program (IHOP).** The provisions of this Section shall apply to all developments of parcels creating ten (10) or more new residential dwelling units. Tracts of land may be developed under the provisions of the existing underlying zoning, or an applicant who owns the parcel, or who has the right to develop it, may elect to proceed under the bonus provisions described hereinafter.

**8.3.2 Procedures.** Applicants who meet the foregoing requirements may apply to the Planning Board for a special permit that will permit them to receive additional units and relaxation of frontage requirements in exchange for the provision of affordable housing units. The Planning Board shall act as SPGA and any plan shall meet the requirements of Section 11.7. If a subdivision is involved a definitive subdivision plan shall be submitted to the Planning Board in addition to the submission required under the special permit procedures. The Natick Housing Partnership or any successor organization having similar interests shall be included in the agencies receiving the distribution of copies of plans for comment.

1. The number of additional dwelling units permitted under the IHOP procedure may not exceed 20% of that otherwise permitted under the underlying zoning, as demonstrated by a plan submitted to the Planning Board. In determining the size of the bonus to be granted the Planning Board may consider a number of factors, including the cost of the land, the cost of development including the cost of construction of the units and infrastructure, and the proposed market price of the units to be built. In addition to any other waiver permitted under the subdivision control law and the Rules and Regulations of the Planning Board, requirements for area and/or frontage may be reduced as follows: area may be reduced up to 15% of the minimum intensity requirements of the underlying zone; frontage may be reduced up to 20% of the minimum required in the underlying zone.

2. Provided that additional units are granted by the Planning Board under the foregoing provision then affordable housing units shall be provided in any one of the following alternatives, subject to approval of the Planning Board:

By donation to the Natick Housing Authority	Minimum of 5%*
By sale to the Natick Housing Authority	Minimum of 10%*
By sale directly to low or moderate income households	Minimum of 10%
By cash payment to be used for low or moderate income family housing, or other affordable housing units	**

Notes: \* = % of total units in development, rounded up to the next whole number.

\*\* = Amount is determined by professional valuation methods as the equivalent value to the units which otherwise would have been provided within the development as affordable units.

3. Units to be donated to the Natick Housing Authority are subject to the approval of the Natick Housing Authority, and of the applicable federal or state funding agency.

4. Units set aside for sale to the Natick Housing Authority shall be offered at prices which do not exceed the greater of:

- a. the construction costs of the particular units, or (ii) the current acquisition cost limits for the particular units under applicable state or federal financing programs.

If the Natick Housing Authority is unable to purchase the set-aside units at the time of completion, the units shall be offered for sale to low and moderate income households.

- b Units set aside for sale to low/moderate income households shall be offered only to those households which qualify as "low" or "moderate" in accordance with the definitions set forth in this By-law.

**8.3.3 Resale Limitations.** Each affordable unit created in accordance with this Section shall have limitations governing its resale. Such limitations shall have as their purpose to preserve the long-term affordability of the unit and to ensure its continued availability to low or moderate income households. The limitations may include a formula to determine the maximum selling price which will take into account the lowered mortgage rates available to the owner at time of purchase, any appreciation to date of proposed sale, and any regulations of the agency which may have participated in providing financing for the original purchase. Additionally, such limitations may provide that in the event of a market rate sale a sum of money shall be returned to a designated agency in the Town that reflects the differential in mortgage rates enjoyed by the owner as a result of less than market rate financing. The resale controls shall be established through a deed restriction, and shall be in force for the maximum period that is permitted under the Massachusetts General Laws. Such restrictions may also provide that the Natick Housing Authority shall have a prior right of purchase at the price determined according to the restriction for a period of thirty (30) days after the unit is placed on sale. Notice of any proposed sale shall be given to the Planning Board and to the Natick Housing Authority.

**8.3.4 Local Preference.** Affordable Units to be offered for sale under the IHOP provisions shall, for a period of six (6) months from the date of first offering for sale, be offered on a 50%-50% basis to residents of the Town of Natick and to persons employed within the Town of Natick. Natick residency status shall be given only to one who had been a resident for at least one (1) year within the previous five (5) years. Such preference shall not be given if prohibited by, or to the extent prohibited by, a federal or state agency under a financing or other subsidy program. Persons who are both residents and work in the Town of Natick shall be given only one preference.

**8.3.5 Development Plan.** In addition to any requirements under Site Plan Review, the Special Permit, or Subdivision approval, an applicant must submit a development plan acceptable to the Planning Board plan indicating how the parcel could be developed under the underlying zoning (i.e. a baseline plan). Any bonus granted shall be calculated from the baseline plan. The development plan showing the bonus units shall also indicate the proposed affordable units, which must be dispersed throughout the parcel to ensure a mix of market-rate and affordable housing. Affordable units shall have an exterior appearance that is compatible with, and to the extent that is possible, indistinguishable from the market rate units in the development. Affordable units shall contain at least two (2) or more bedrooms and shall be suitable as to design for family occupancy. The owners of affordable units shall have all of the rights and

privileges accorded to market rate owners regarding any amenities within the development.

## **8.4 TOWN HOUSE CLUSTER DEVELOPMENT IN THE RSA DISTRICT**

**8.4.1 Purpose.** The purpose of this Section 8.4 is

1. To permit more economical and efficient use of land in the RSA District than may be accomplished through standard subdivision development; and
2. To protect the existing character of the landscape and preserving open space areas for conservation and recreation.

**8.4.2 Applicability.** The Planning Board may grant a special permit for the construction and occupancy of a Town House Cluster Development located in the RSA District, provided that the gross land area of the parcel is at least 40 contiguous acres. The applicant must either own or submit authorization in writing to act for all the owners of the parcel. Two or more adjacent parcels which are separated by a distance of 100 ft., or less, may be combined and treated as a single parcel for the purpose of this Section.

**8.4.3 Permitted Uses.** Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations are allowed as of right. Any other use permitted as a matter of right or under a special permit in the RSA District as set forth in the Table of Use Regulations may be undertaken on a parcel to which this Section is to be applied; however, the Planning Board may grant a special permit to allow the following additional uses:

1. Town Houses;
2. Country Club, including golf by natural light only, swimming, tennis and other similar recreational uses, provided they are included within the Overall Development Plan of a Town House Cluster Development and are available to the general public;
3. Clubhouse, incidental to the operation of a country club including eating facilities for members and guests, provided it is included within the Overall Development plan of a Town House Cluster Development, and the building housing the facilities does not exceed 20,000 sq. ft. in gross floor area, and the planning Board determines that its operation will not be detrimental or injurious to adjacent residential uses or the value or adjacent properties.

**8.4.4 Jurisdiction.** Where the proposed uses of an RSA parcel under this Section would require obtaining a special permit from both the Board of Appeals and Planning Board, then the Planning Board shall have exclusive jurisdiction to issue or deny all of such permits for a particular project. The Planning Board shall retain said jurisdiction until the Town House Cluster Development has been constructed in accordance with the Overall Development Plan as

approved by the Planning Board. Thereafter, the granting of special permits shall be in accordance with other provisions of this Zoning By-Law.

**8.4.5 Pre-Application Review.** To promote better communication and to avoid misunderstanding, the applicant is encouraged, prior to preparation of a formal application, to meet with the Planning Board and Planning Director for general discussion, using the soil survey, drainage, topographic and other data available from the Town.

**8.4.6 Application.** The applicant for a Town House Cluster Development shall submit to the Planning Board a formal application for a special permit, which includes an Overall Development Plan, and is otherwise in compliance with Rules and Regulations especially established by the Planning Board relative thereto. The application shall be filed in the name of the record owner of the parcel to be developed. Date of application shall be the date when filing is made with the Planning Board.

**8.4.7 Requirements.** A Town House Cluster Development must conform to the following, unless the requirement is waived by the Planning Board in the special permit process:

1. Number of Dwelling Units. The maximum number of dwelling units shall equal the Net Usable Land Area within the parcel to be used for the Town House Cluster Development in accordance with this Section divided by 15,000, rounded to the nearest whole number. Net Usable Land Area as used herein shall mean sixty-five (65) per cent of the area remaining after subtracting the areas of any bodies of water, wetland, or land lying within the 100 year flood elevation from the gross area of the parcel to be used for residential use and open space. The flood plain and wetlands maps and aerial surveys adopted as official maps by the Planning Board from time to time shall be used to determine areas of water, 100 year flood plain elevations and wetland boundaries.
2. Buffer. No building or parking shall be located closer than fifty (50') feet from the boundaries of the Overall Development Plan unless appropriate protective screening and buffer areas as approved by the Planning Board have been provided.
3. Flood Zones. No construction shall take place within the 100 year flood elevation except in conformity with the requirements and procedures established by the Town for such areas pursuant to the National Flood Insurance Program (42 USC 4001-4128) and the regulations of the Secretary of Housing and Urban Development issued thereunder.
4. Height. Maximum height of any building shall not exceed 35 feet above mean grade.
5. Coverage. Maximum per cent of building coverage shall be 10 per cent.
6. Separation. All buildings shall be separated from other buildings by a distance of 10 feet or 10 per cent of the length of the shorter of the adjacent building involved,

whichever is greater.

**8.4.8 Preserved Open Space.** Preserved open space shall comprise not less than thirty (30) per cent of the total land area of the parcel for which there is an Overall Development Plan. At Least eighty (80) per cent of the dwelling units shall abut or be within three hundred (300') feet of the Preserved Open Space and have access via a public way or easement for a distance of no more than one hundred (100') feet to such Preserved Open Space. At Least fifty (50) per cent of the Preserved Open Space shall not be wetlands or land subject to seasonal or periodic flooding unless a higher percentage is specifically approved by the Planning Board. The Special Permit authorizing the Town House Cluster Development shall further provide that the Preserved Open Space shall be conveyed to a corporation or trust owned, or to be owned, by the owners of the lots or residential units within the parcel for recreational and/or conservation purposes, with each lot subject to a proportionate charge for its share of the reasonable and appropriate maintenance expenses. The Town shall be granted an easement or restriction over such parcel sufficient to ensure its perpetual reservation for conservation, recreation or park land.

**8.4.9 Special Permit Criteria.** Approval of the application for a special permit to allow the construction of a Town House Cluster Development shall be granted only upon Planning Board determination that the Plan is superior to a conventional subdivision plan. The following criteria shall be used to make the determination as to whether or not the plan is superior: the preservation of open space for conservation and/or recreation; the protection of natural features of the land; the protection of historical or other significant features; more efficient provision of street, utilities and other public services. Specific means of achieving these objectives include:

1. Avoidance of frequent driveway openings onto through streets, or near street intersections.
2. Avoidance of extensive topographic change necessitating vegetation and tree removal.
3. Preservation of scenic views from public ways.
4. Preservation of natural landscape in large contiguous areas which are visible from roadways and residences, enhancing the likelihood of the continuation of existing eco systems.
5. Use of Preserved Open Space to protect natural environments such as stream valleys, ponds, outstanding vegetation, or scenic spots.
6. Avoidance of access via existing minor streets servicing single family homes, especially where town houses are sited.

## **8.5 COMPREHENSIVE CLUSTER DEVELOPMENT OPTION IN THE RSA DISTRICT**



**8.5.1 Purpose.** The Comprehensive Cluster Development (CCD) option is designed

1. To help the Town maximize available land in the RSA District for open space;
2. To increase the amount of affordable housing;
3. To encourage the creation of handicapped accessible housing and provide both age-qualified housing and conventional housing; and
4. To preserve Natick's New England character.

This development alternative permits a more economical and efficient use of residential land than may be accomplished through standard subdivision development by: protecting the existing character of the landscape; introducing diversity into residential developments; and preserving more public open space for water supply, wetland, and other natural habitat, conservation, and recreation. In addition, it reduces the typical costs of providing municipal services to residential developments. Such objectives may be obtained as an alternative or optional choice by a landowner in the RSA District. Applicants can benefit from choosing this option because they are able to increase the density of their development over other available options in the RSA district.

**8.5.2 Applicability.** The Planning Board may grant a special permit and subdivision approval in accordance with the Subdivision Rules and Regulations, and other rules and regulations as adopted pursuant to this Section, for the construction and occupancy of a CCD located in the RSA District, provided that the gross land area of the parcel is at least one million (1,000,000) square feet. The applicant must either own or submit authorization in writing to act for all the owners to the lots comprising the parcel prior to submitting a formal application.

**8.5.3 Permitted Uses.** Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations are allowed as of right. The Planning Board may grant a special permit for the following uses:

1. Single family homes which meet the dimensional requirements of single family lots as stated in Section 4.0 herein.
2. Town Houses, provided that the total number of Town House units does not exceed fifty-five (55%) percent of the total number of units permitted for the entire CCD pursuant to this Section.
3. Indoor and outdoor tennis courts, swimming pools and other non-commercial recreational facilities with use restricted to residents of the CCD, including accessory structures necessary for appropriate non-commercial use and operation of such

recreational facilities.

4. Age-qualified housing units, provided that the total number of age-qualified housing units does not exceed fifty-five (55) percent of the total number of units permitted for the entire CCD pursuant to this Section.

**8.5.4 Pre-Application Review.** To promote better communication and to avoid misunderstanding, the applicant shall request a pre-application review at a regular business meeting of the Planning Board. The Planning Board shall invite the Conservation Commission, Board of Health and any other Committee and/or Board with interest in the proposal to the pre-application review. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts and to commence negotiations with the Planning Board at the earliest possible time in the development cycle. At the pre-application review, the applicant may outline the proposal, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request and expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for approval of a CCD. In order to facilitate review of the CCD at the pre-application stage, applicants are strongly encouraged to submit the following information:

1. Site Context Map. This map illustrates the parcel in relation to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

2. Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature un-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 in to and out from the property. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap and/or conflict.

3. Site Visit Request. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate the pre-application review of the CCD.

**8.5.5 Application.** The applicant for a CCD shall submit to the Planning Board a formal application for a special permit which includes a final site plan in accordance with Section 11.7 and a definitive plan for subdivision approval, and which is otherwise in compliance with rules

and regulations especially established by the Planning Board relative thereto. The application shall be filed in the name of the record owner(s) of the parcel(s) to be developed. The date of application shall be the date when filing is made with the Planning Board.

**8.5.6 Number of Dwelling Units.** The maximum number of dwelling units allowed in a CCD shall equal the “Net Usable Land Area” within the parcel divided by 15,000 square feet then rounded to the nearest whole number. At least ten percent (10%) of this total number of dwelling units shall be Affordable Housing Units as defined in Section 8.3 (see also the definition of Subsidized Housing herein).

1. As used herein, "Net Usable Land Area" shall mean eighty percent (80%) of the resultant area obtained by subtracting the required preserved open space, as defined in this Section from the gross land area of the parcel. Additionally, if the sum of the land area lying below the 100-year flood elevation and the wetland resource area, exceeds twenty five (25) percent of the gross land area of the parcel, then the Net Usable Land Area will further be reduced by the amount that this sum exceeds the twenty five (25) percent threshold. Furthermore, if the final site plan includes a recreational facility, all the land area dedicated to that facility will be deducted from the “net usable land area” for the purpose of calculating the maximum number of dwelling units.

**8.5.7 Intensity Regulations.** Single -family structures shall be on lots having the following requirements:

Minimum lot area	20,000 square feet
Minimum continuous frontage	120 feet
Minimum depth	125 feet, unless waived
Minimum front setback	30 feet with garage
Minimum side yard	12 feet
Minimum rear yard	25 feet
Maximum building coverage	20%
Maximum building height	35 feet, 2.5 stories

Town Houses shall be built on separate Town House lot(s), with each such Town House lot consisting of at least 7,000 square feet of land times the number of dwelling units to be built on that lot. Access to the lot shall be built from a right of way, having at least fifty (50) feet of width. All Town Houses shall be built at least fifty (50) feet from the lot lines of the Town House lot and shall have a maximum building height of 35 feet, unless waived. If the Town House lot abuts any portion of the exterior boundary of the overall development parcel, the

setback requirements of this Section, above, shall apply.

**8.5.8 Exceptions to the Intensity Regulations.** The following exceptions shall apply:

1. No building or parking shall be located within one hundred (100) feet of the boundaries of the parcel unless the Planning Board determines that a lesser setback would be sufficient to visually screen or separate the development from adjacent property, however, under no circumstances will the setback be less than fifty (50) feet.
2. No construction shall take place within the one hundred (100) year flood elevation line except in conformity with the requirements of G.L. Chapter 131, Section 40, and procedures established by the Town for such areas pursuant to the National Flood Insurance Program (42 USC 4001-4128) and the regulations of the Secretary of Housing and Urban Development issued thereunder.
3. Frontage need not exceed fifty (50) feet on any lot for a single family home providing a front building line is designated on the plan for such lot, and if the width of the lot at this building line is at least equal to the frontage otherwise required under this Section.
4. Indoor and outdoor recreational facilities intended for use by CCD residents of more than one dwelling unit shall be located on a separate lot containing no dwelling units.
5. The depth of the lots as delineated in Section 8.5.7 may be reduced, if in the opinion of the Planning Board that a waiver would improve the layout of the overall plan.

**8.5.9 Age-Qualified Housing Units.** The age-qualified housing units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall require at least one occupant in each age-qualified housing unit to be at least age 55; provide for reasonable, time-limited guest visitation rights; and authorize special exceptions as the Planning Board shall further define and specify in its special permit. The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of the age qualified housing units.

**8.5.10 Affordability.** It is mandatory that a percentage of dwelling units in a CCD be sold, rented, or leased at prices and rates that are affordable to low- and moderate-income individuals, as more specifically set forth in the following:

1. Affordable Housing shall be determined in accordance with the definition of Subsidized Housing found in Section 8.3. All Affordable Housing units that are built shall be provided for sale through the Natick Housing Corporation or any similar organization, as determined by the Planning Board.
2. Basic Affordability Component. At least 10% of the units in the CCD, to the nearest

whole number, shall be Affordable Housing units. None of the Affordable Housing units shall be age-qualified housing units.

3. **Affordability Standards.** Subject to Planning Board approval, an applicant for a CCD special permit may utilize any available State or Federal assistance program or shall meet the Affordable Housing unit requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for individuals that are generally consistent with available Affordable Housing assistance programs.

4. **Affordability Restrictions.** Affordable units shall be maintained in perpetuity. Each affordable unit shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the use and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for such maximum time as may be permitted under applicable state law governing such restrictions. They shall be enforceable and renewable by the Town of Natick through standard procedures provided by applicable law.

5. **Right of First Refusal.** The Planning Board may require that the restrictions for affordable units contain a right of first refusal to the Town of Natick or its designee at the restricted resale value, and that the owner provides notice of such right of first refusal to the Planning Board or its designee prior to selling or reselling the affordable unit with such reasonable time as the Planning Board may determine in its discretion for the town or its designee is necessary to exercise the right of first refusal.

6. **Enforcement.** Nothing in this Section shall be construed to cause eviction of an owner or tenant of an Affordable Housing unit due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an Affordable Housing unit shall be enforced upon resale, re-rental, or re-lease of the Affordable Housing unit. The mechanisms and remedies to enforce the restrictions governing an Affordable Housing unit upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

7. **Contracts.** All contractual agreements with the Town of Natick and other documents necessary to insure the long term affordability of an affordable unit shall be executed prior to the issuance of any building permit under this option.

8. **Exterior Design.** The exterior of the affordable units shall be compatible with, and as much as possible indistinguishable from, market-rate dwelling units in the CCD development.

9. **Local Preference.** Unless otherwise regulated by an applicable Federal or State agency

under a financing or other subsidy program, at least fifty percent (50%) of the affordable units shall be initially offered to residents and employees of the Town of Natick. Residency and employment in Natick shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence approved by the Town Clerk.

10. Purchaser/Tenant Selection. Procedures for the selection of purchasers and/or tenants shall be subject to regulations adopted by the Planning Board. These restrictions shall be in force for one hundred and twenty (120) days from the date of the first offering of sale or rental of a particular affordable unit.

**8.5.11. Building Design Criteria.** All buildings and structures shall be designed, located and constructed in accordance with the following standards:

1. Design shall promote compatible architectural styles, scales, building materials and colors within the development;
2. Design will feature variations in façade, roof lines and interior layouts of dwelling units, including the design of units that are handicapped accessible;
3. Design shall promote a harmonious relationship of buildings and structures to each other and their environs with adequate light, air, circulation, privacy and separation;
4. Lighting shall promote the capability for constant surveillance, orientation and recognition. To this end, and in lieu of providing conventional street lighting, individual building lot front yards and other areas along roadways not fronting building lots and approaches to common-use buildings and structures, shall be provided with architecturally compatible street-level-type lamp post lighting necessary to provide safety, security and visual indications, as determined by the Planning Board.

**8.5.12 Preserved Open Space.** In Comprehensive Cluster Developments, it is desired to create an environment in which large tracts of contiguous land are preserved for publicly accessible open space. Preserved open space must include at least twenty percent (20%) of the frontage on the roads servicing the CCD. A portion of the preserved open space may be used as a common surrounded by a one-way road, in which event all of the road abutting such common will be counted as frontage for the purpose of fulfilling the foregoing requirement. For the purposes of this Section, the preserved open space shall comprise not less than fifty (50) percent of the total land area of the parcel for which there is a final site plan and will not include rights of way for roads, detached single-family lots, Town House lots or recreational facilities. Also, land which is under an existing conservation restriction or agricultural, forest land, or recreational restriction, (APR or Chapter 61, Chapter 61A, Chapter 61B) may not be included in the preserved open space. At least eighty percent (80%) of the dwelling units shall abut or be within five hundred (500') feet of the Preserved Open Space and all dwelling units shall have access via a public way

or easement to such Preserved Open Space. At least fifty percent (50%) of the Preserved Open Space shall not be primary zone wetlands or land within the 100-year flood elevation either as shown on the Townwide Drainage study maps or as delineated by a qualified wetland scientist. All the Preserved Open Space shall be accessible to the general public. The special permit authorizing the CCD shall further provide that the Preserved Open Space shall be:

1. Conveyed to and accepted by the Town of Natick under a conservation restriction pursuant to G.L. Chapter 184, as amended;
2. Conveyed to a non-profit organization, the principal purpose of which is the conservation of open space; or
3. Conveyed to the owners of all the lots within the CCD as tenants in common, provided that title to such open space and to the lots is not separately alienable; or
4. Conveyed to a corporation or trust owned or to be owned, by the owners of the lots or residential units within the CCD for recreation or conservation purposes, with each lot subject to a proportionate charge for its share of the reasonable and appropriate maintenance expenses.

If method 2, 3, or 4 is elected, in addition, the Town shall be granted a conservation restriction over the Preserved Open Space pursuant to G.L. Chapter 184, as amended; and in the event the Town is required to expend funds for the reasonable and appropriate maintenance expenses of the Preserved Open Space, then each lot in the CCD shall be subject to a proportionate charge for its share of such expenses. No more than one method shall be elected for the Preserved Open Space within any CCD, unless the Planning Board shall otherwise approve.

**8.5.13 Special Permit Criteria.** Approval of the application for a special permit and for subdivision approval to allow the construction of a CCD shall be granted only upon Planning Board determination that the plan is superior to a conventional subdivision plan. The following criteria shall be used to make the determination as to whether or not the plan is superior:

1. The preservation and public accessibility of open space for conservation or recreation and other objectives outlined in the town's current Open Space Plan;
2. The protection of significant large contiguous areas of natural features of the land; which would avoid extensive topographic change necessitating vegetation and tree removal or earth removal;
3. The protection of historical or other significant features;
4. More efficient provision of street, utilities and other public services; and

5. The provision of a diversity of dwelling unit styles, sizes, and architectural elements.

Specific means of achieving these objectives include:

6. Avoidance of frequent driveway openings onto through streets, or near street intersections;
7. Avoidance of extensive topographic change necessitating vegetation, earth and/or tree removal;
8. Preservation of scenic views from public ways;
9. Preservation of natural landscapes in large contiguous areas and corridors, which are visible from roadways and residences, enhancing the likelihood of the continuation of existing ecosystems and providing an interconnection to adjoining open spaces for both wildlife and public access;
10. Accessibility of the Preserved Open Space to substantially all of the dwelling units and the public;
11. Variations in lot sizes, building styles, building sizes and building arrangements; and
12. Use of Preserved Open Space to protect significant natural environment such as but not limited to ground water recharge areas; wetlands that provide flood protection; stream valleys; outstanding vegetation; woodland; field and wetland habitat; or scenic spots; and to avoid development on geologically unsuitable land.

**8.5.14 Regulations.** In its regulations, the Planning Board may provide for the relative percentage mix of single family homes, Town Houses, and age-qualified housing units.

## **8.6 SINGLE FAMILY TOWN HOUSE CLUSTER DEVELOPMENT IN THE RSA DISTRICT**

**8.6.1 Purpose.** The purpose of this Section is

1. To permit more economical and efficient use of residential land than may be accomplished through standard subdivision development by protecting the existing character of the landscape, introducing some variety into residential development, and preserving for the Town more open space for water supply;
2. To provide for flood protection, woodland, field and wetland habitat, conservation and recreation.



**8.6.2 Applicability.** The Planning Board may grant a special permit for the construction and occupancy of a Single Family Town House Cluster Development located in the RSA District, provided that the gross land area of the parcel is at least 1,000,000 square feet. The applicant must either own or submit authorization in writing to act for all the owners of the lots comprising the parcel. Two or more adjacent parcels, each of which contain 1,000,000 square feet, which are separated by a distance of 100 feet, or less, may be combined and treated as a single parcel for the purposes of this Section.

**8.6.3 Permitted Uses.** Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations are allowed as of right. The following uses may be undertaken under the alternative procedure and requirements provided for in this Section upon the grant of a special permit by the Planning Board.

1. Any use permitted in the RS District as set forth in the Table of Use Regulations;
2. Town Houses, provided that the total number of Town House units does not amount to more than thirty-five (35 per cent) per cent of the total number of dwelling units allowable in the entire cluster development pursuant to this Section; and
3. Zero-lot-line single family homes, provided that the total number of Single Family homes so attached plus the total number of Town House units does not amount to more than thirty-five (35 percent) per cent of the total number of dwelling units allowable in the entire cluster development pursuant to this Section. As used herein, "zero-lot-line" shall mean the joining of two dwelling units together at a common property line by reducing the normal required side yard to zero on each lot and then attaching the units by a common wall located on the property line; no more than two units may be joined at a single property line, and no more than three units may be so attached in a row.
4. Existing Residential Buildings: Any residential building existing prior to January 1, 1980 which contains 4,000 square feet or more gross floor area may be subdivided into residential units having at least 2,000 square feet each, provided that the building is not expanded in size. However, in no event shall the Planning Board permit the number of these additional units, when added to the number of units determined in accordance with this Section, to increase the latter by more than fifteen (15%) percent. Such units shall be in addition to the number of dwelling units calculated under this Section.

**8.6.4 Pre-Application Review.** To promote better communication and to avoid misunderstanding, the applicant is encouraged, prior to preparation of a formal application, to meet with the Planning Board and Planning Director for general discussion, using the soil survey, drainage, topographic and other data available from the Town.

**8.6.5 Application.** The applicant for a Single Family Town House Cluster Development shall submit to the Planning Board an application for a special permit which includes an Overall

Development Plan, and is otherwise in compliance with Rules and Regulations especially established by the Planning Board relative thereto, unless the requirement is waived by the Planning Board in the special permit process. The application shall be filed in the name of the record owner(s) of the parcel(s) to be developed. Date of application shall be the date when filing is made with the Planning Board.

**8.6.6 Number of Dwelling Units.** The maximum number of dwelling units allowed in a Single Family Town House Cluster Development shall equal the "Net Usable Land Area" within the parcel divided by the minimum lot area requirements for a single family dwelling in that District as determined from Section 4.0 of this By-law then rounded to the nearest whole number. As used herein, "Net Usable Land Area" shall mean eighty (80 per cent) per cent of the resultant area obtained by subtracting seventy (70 per cent) per cent of the land area lying below the one hundred (100) year flood elevation as delineated on the Townwide Drainage Study maps by Coffin & Richardson Engineers (scale 1" equals 100') and fifty (50 percent) percent of the primary zone wetland area (also as shown on said Town-wide Drainage Study maps) which is shown outside the limits of the one hundred (100) year flood elevation from the gross land area of a parcel or portion thereof classified within a single zoning district. If the Overall Development Plan lies in more than one zoning district, the number of dwelling units allowed shall be calculated as above for that portion of the parcel in each of the zoning districts separately and the resultant determinations added together to give an overall allowable total number of dwelling units for the parcel. Dwelling units may be transferred between zoning districts, being limited only by the overall allowable total and by the design restriction of the Overall Development Plan for the parcel.

**8.6.7 Intensity Regulations.** Dwellings shall be on designated building lots with dimensional control varying from those otherwise permitted in the District as follows:

1. If in the RSA or RSA Districts, single family houses shall meet the requirements for the RSA Districts;
2. If in the RSA District; single family homes shall meet the requirements for the RSA District;
3. Town Houses located in the RSA, RSA, or RSA districts shall be on lots meeting the minimum lot area requirements of the RM Districts as set out in Section 4.0 of this By-Law and footnotes (d) thereto. The minimum lot frontage shall be eighty (80) feet, providing that a front building line is designated on the Overall Development Plan for such lot and the width of the lot at this building line is at least one hundred twenty (120) feet. However, no Town House within the Overall Development Plan shall contain more than three (3) dwelling units. Furthermore, the lot lines of each lot containing Town Houses in the Overall Development Plan shall be separated from the lot lines of any other lot containing Town Houses by at least fifty feet (50').

4. All Town Houses and above-ground structures or facilities related thereto and used in support thereof, including Town House parking, shall be set back at least one hundred (100) feet from the boundaries of the Overall Development Plan and all Town Houses shall be located at least two hundred (200) feet from all single family homes not located within the Overall Development Plan.

**8.6.8 Exceptions to the Intensity Regulations and Other Rules.** The following exceptions shall apply:

1. More than one Town House may be erected on a lot;
2. No building or parking shall be located within one hundred (100') feet of the boundaries of the Overall Development Plan;
3. Frontage need not exceed fifty (50') feet on any lot for a single family home providing a front building line is designated on the Plan for such lot, and if the width of the lot at this building line is at least equal to the frontage otherwise required under this Section; and
4. No construction shall take place within the one hundred (100) year flood elevation except in conformity with the requirements of Chapter 131, Section 40, and procedures established by the Town for such areas pursuant to the National Flood Insurance Program (42 USC 4001-4128) and the Regulations of the Secretary of Housing and Urban Development issued thereunder.
5. Subject to the limitations of set forth herein, dwelling units which would otherwise qualify as Town Houses on an RM minimum sized lot and meet the intensity regulations of Section 8.6.7.3 for Town Houses may instead be divided into zero-lot-line single family homes provided that each lot resulting from the division of the RM lot has at least fifty (50) feet of frontage and meets the minimum lot area requirements of Section 4.0 for single family homes, and the unattached sides of such units meet the side yard setbacks otherwise required under this Section.

**8.6.9 Preserved Open Space.** In Single Family Town House Developments, it is desired to create an environment in which preserved open space is intermixed with housing. Preserved open space must include at least twenty (20 per cent) per cent of the frontage on the roads servicing the Development. A portion of the preserved open space may be used as a common surrounded by a one-way road, in which event all of the road abutting such common will be counted as frontage for the purpose of fulfilling the foregoing requirement. The preserved open space shall comprise not less than thirty (30 per cent) per cent of the total land area of the parcel for which there is an Overall Development Plan. At least eighty (80 per cent) per cent of the dwelling units shall abut or be within three hundred (300') feet of the preserved Open Space and have access via a public way or easement for a distance of no more than one hundred (100') to

such Preserved Open Space. At least fifty (50 per cent) per cent of the Preserved Open Space shall not be primary zone wetlands or land within the 100 year flood elevation both as shown on the Town-wide Drainage study maps unless a higher percentage is specifically approved by the Planning Board. The Special Permit authorizing the Cluster Development shall further provide that the Preserved Open Space shall be:

1. Conveyed to and accepted by the Town of Natick under a conservation restriction pursuant to G.L. Chapter 184, as amended;
2. Conveyed to a non-profit organization, the principal purpose of which is the conservation of open space; or
3. Conveyed to the owners of all the lots within the Overall Development Plan as tenants in common, provided that title to such open space and to the lots is not separately alienable; or
4. Conveyed to a corporation or trust owned or to be owned, by the owners of the lots or residential units within the parcel for recreation or conservation purposes, with each lot subject to a proportionate charge for its share of the reasonable and appropriate maintenance expenses.

If any of methods 2, 3, or 4 is elected, in addition, the Town shall be granted an easement or restriction over such parcel sufficient to ensure its perpetual reservation for conservation, recreation or park land; and in the event the Town is required to expend funds for the reasonable and appropriate maintenance expenses of the Preserved Open Space, then each lot in the Overall Development Plan shall be subject to a proportionate charge for its share of such expenses.

**8.6.10 Special Permit Criteria.** Approval of the application for a special permit to allow the construction of a Single Family Town House Cluster Development shall be granted only upon Planning Board determination that the plan is superior to a conventional subdivision plan. The following criteria shall be used to make the determination as to whether or not the plan is superior:

1. The preservation and accessibility of open space for conservation or recreation;
2. The protection of significant natural features of the land;
3. The protection of historical or other significant features; and
4. More efficient provision of street, utilities and other public services.

Specific means of achieving these objectives include:

5. Avoidance of frequent driveway openings onto through streets, or near street intersections;
6. Avoidance of extensive topographic change necessitating vegetation and tree removal;
7. Preservation of scenic views from public ways;
8. Preservation of natural landscape in large contiguous areas which are visible from roadways and residences, enhancing the likelihood of the continuation of existing ecosystems.
9. Accessibility of the Preserved Open Space to substantially all of the dwelling units;
10. Variations in lot sizes and building arrangements;
11. Use of Preserved Open Space to protect significant natural environments such as but not limited to ground water recharge areas; wetlands that provide flood protection; stream valleys; outstanding vegetation; woodland; field and wetland habitat; or scenic spots; and to avoid development on geologically unsuitable land;
12. Avoidance of access via existing minor streets servicing single family homes, especially where Town Houses are sited.

## **8.7 CLUSTER DEVELOPMENT IN THE RSA DISTRICT**

**8.7.1 Purpose.** The purpose of this Section is:

1. To permit more economical and efficient use of residential land than may be accomplished through standard subdivision development;
2. To protect the existing character of the landscape, introduce some variety into residential development, and preserve for the Town more open space for water supply;
3. To promote flood protection, woodland, field and wetland habitat, conservation, and recreation.

**8.7.2 Applicability.** The Planning Board may grant a special permit for the construction and occupancy of a Single Family Town House Cluster Development located in the RSA District, provided that the gross land area of the parcel is at least forty (40) acres. The applicant must either own or submit authorization in writing to act for all the owners to the lots comprising the parcel. Two or more parcels, each of which contain 1,000,000 square feet, which are separated by a distance of 100 feet, or less, may be combined and treated as a single parcel for the purposes

of this Section.

**8.7.3 Permitted Uses.** The following uses may be undertaken under the alternative procedure and requirements provided for in this Section upon the grant of a special permit by the Planning Board:

1. Any use permitted in the RSA District as set forth in the Table of Use Regulations;
2. Town Houses, provided that the total number of Town House units does not amount to more than fifty (50 percent) percent of the total number of dwelling units allowable in the entire cluster development pursuant to this Section; and
3. Zero-lot-line single family homes, provided that the total number of Single Family homes so attached plus the total number of Town House units does not amount to more than fifty (50 percent) of the total number of dwelling units allowable in the entire cluster development pursuant to this Section. As used herein, "Zero-lot-line" shall mean joining of two, dwelling units together at a common property line by reducing the normal required side yard to zero on each lot and then attaching the units by a common wall located on the property line; no more than two units may be joined at a single property line, and no more than three units may be so attached in a row.
4. Outdoor tennis courts, outdoor swimming pools and other outdoor recreational facilities intended for use by residents of the RSA Single Family Town House Cluster Development only, including accessory structures necessary for appropriate use and operation of such outdoor recreational facilities.

**8.7.4 Relation to District Rules.** In the event the owner or owners of land included in an Overall Development Plan which has received special permit pursuant to this Section obtain a building permit to develop such land under the approved Overall Development Plan, then the uses permitted prior to approval of the Overall Development Plan for such land shall no longer be permitted, and only the uses as allowed under the approved Overall Development Plan shall be allowed.

**8.7.5 Pre-Application Review.** To promote better communication and to avoid misunderstanding, the applicant is encouraged, prior to preparation of a formal application, to meet with the Planning Board and Planning Director for general discussion, using the soil survey, drainage, topographic and other data available from the Town.

**8.7.6 Application.** The applicant for a Single Family Town House Cluster Development shall submit to the Planning Board an application for a special permit, which includes an Overall Development Plan, and is otherwise in compliance with Rules and Regulations especially established by the Planning Board relative thereto, unless the requirement is waived by the Planning Board in the special permit process. The application shall be filed in the name of the

record owner (s) of the parcel (s) to be developed. Date of application shall be the date when filing is made with the Planning Board.

**8.7.7 Number of Dwelling Units.** The maximum number of dwelling units allowed in a RSA Single Family Town House Cluster Development shall equal the "Net Usable Land Area" within the parcel divided by the minimum lot area requirements for a single family dwelling in the RSA District, as determined from Section 4.0, then rounded to the nearest whole number. As used herein, "Net Usable Land Area: shall mean seventy-five (75%) percent of the resultant area obtained by subtracting one hundred (100%) percent of the land area lying below the one hundred (100) year flood elevation as delineated on the Townwide Drainage Study maps prepared by Coffin & Richardson Engineers (scale 1" equals 100') and one hundred (100) percent of the primary zone wetland area (also as shown on said Townwide Drainage Study maps) which is shown outside the limits of the one hundred (100) year flood elevation from the gross land area of parcel or portion thereof classified within a single zoning district. If the Overall Development Plan lies in more than one zoning district, the number of dwelling units allowed shall be calculated as above for that portion of the parcel in each of the zoning districts separately and the resultant determinations added together to give an overall allowable total number of dwelling units for the parcel. Dwelling units and other allowed uses may be transferred between zoning districts, being limited only by the overall allowable total and by the design restrictions of the Overall Development Plan for the parcel. Should the Town revise or amend the aforesaid Townwide Drainage Study maps, or adopt other such maps, then the maps then in effect shall be applicable as provided above.

**8.7.8 Intensity Regulations.** Dwellings shall be on designated building lots with dimensional control varying from those otherwise permitted in the District as follows:

1. Single family houses shall meet the requirements for the District in which they are located as set out in Section 3.0 of these By-laws.
2. Town Houses located in the RSA District shall be on lots meeting the minimum lot area requirements of the RM District as set out in Section 4.0 and footnotes (d) thereto. The minimum lot frontage shall be eighty (80) feet, providing that a front building line is designated on Overall Development Plan for such lot and the width of the lot at this building line is at least one hundred and twenty (120) feet. However, no Town House within the Overall Development Plan shall contain more than three (3) dwelling units. Furthermore, the lot lines of each lot containing Townhouses in the Overall Development Plan shall be separated from the lot lines of any other lot maintaining Town Houses by at least fifty feet (50').
3. All Town Houses and above-ground structures or facilities related thereto and used in support thereof, including Town House parking, shall be set back at least one hundred (100) feet from the boundaries of the Overall Development Plan and all Town Houses shall be located at least two hundred (200) feet from all single family homes not located

within the Overall Development Plan.

**8.7.9 Exceptions to the Intensity Regulations.** The following exceptions shall apply:

1. More than one Town House may be erected on a lot.
2. No building or parking shall be located within one hundred (100') feet of the boundaries of the Overall Development Plan.
3. Frontage need not exceed fifty (50') feet on any lot for a single family home providing a front building line is designated on the Plan for such lot, and if the width of the lot at this building line is at least equal to the frontage otherwise required under this Section.
4. No construction shall take place within the one hundred (100) year flood elevation except in conformity with the requirements of Chapter 131, Section 40, and procedures established by the Town for such areas pursuant to the National Flood Insurance Program (42 USC 4001-4128) and the regulations of the Secretary of Housing and Urban Development issued thereunder.
5. Subject to the limitations of this Section, dwelling units which would otherwise qualify as Town Houses on an RM minimum sized lot and meet the intensity regulations for Town Houses, may instead be divided into zero-lot-line single family homes provided that each lot resulting from the division of the RM lot has at least fifty (50) feet of frontage and meets the minimum lot area requirements of this Section for single family homes, and the unattached sides of such units meet the side yard setbacks otherwise required under this Section.
6. Outdoor recreational facilities intended for use by residents of more than one dwelling unit shall be located on a separate lot containing no dwelling units.

**8.7.10 Preserved Open Space.** In Single Family Town House Developments, it is desired to create an environment in which preserved open space is intermixed with housing. Preserved open space must include at least twenty (20 percent) percent of the frontage on the roads servicing the Development. A portion of the preserved open space may be used as a common surrounded by a one-way road, in which event all of the road abutting such common will be counted as frontage for the purpose of fulfilling the foregoing requirement. The preserved open space, including land used for outdoor recreational facilities and accessory structures, shall comprise not less than thirty (30 percent) percent of the total land area of the parcel for which there is an Overall Development Plan. At least eighty (80 percent) percent of the dwelling units shall abut or be within five hundred (500') feet of the Preserved Open Space and all dwelling units shall have access via a public way or easement to such Preserved Open Space. At least fifty (50 percent) percent of the Preserved Open Space shall not be primary zone wetlands or land within the 100 year flood elevation both as shown on the Townwide Drainage study maps unless a higher



percentage is specifically approved by the Planning Board. The Special Permit authorizing the Cluster Development shall further provide that the Preserved Open Space shall be:

1. Conveyed to and accepted by the Town of Natick under a conservation restriction pursuant to G.L. Chapter 184, as amended;
2. Conveyed to a non-profit organization, the principal purpose of which is the conservation of open space; or
3. Conveyed to the owners of all the lots within the Overall Development Plan as tenants in common, provided that title to such open space and to the lots is not separately alienable; or
4. Conveyed to a corporation or trust owned or to be owned, by the owners of the lots or residential units within the parcel for recreation or conservation purposes, with each lot subject to a proportionate charge for its share of the reasonable and appropriate maintenance expenses.

If method 2, 3, or 4 is elected, in addition, the Town shall be granted an easement or restriction over such parcel sufficient to ensure its perpetual reservation for conservation, recreation or park land; and in the event the Town is required to expend funds for the reasonable and appropriate maintenance expenses of the Preserved Open Space, then each lot in the Overall Development Plan shall be subject to a proportionate charge for its share of such expenses. No more than one method shall be elected for the Preserved Open Space within any Overall Development Plan, unless the Planning Board shall otherwise approve.

**8.7.11 Special Permit Criteria.** Approval of the application for a special permit to allow the construction of a Single Family Town House Cluster Development shall be granted only upon Planning Board determination that the plan is superior to a conventional subdivision plan. The following criteria shall be used to make the determination as to whether or not the plan is superior:

1. The preservation and accessibility of open space for conservation or recreation;
2. The protection of significant natural features of the land;
3. The protection of historical or other significant features;
4. More efficient provision of street, utilities and other public services; and
5. The provision of a diversity of dwelling unit styles and sizes.

Specific means of achieving these objectives include:

6. Avoidance of frequent driveway openings onto through streets, or near street intersections;
7. Avoidance of extensive topographic change necessitating vegetation and tree removal;
8. Preservation of scenic views from public ways;
9. Preservation of natural landscape in large contiguous areas which are visible from roadways and residences, enhancing the likelihood of the continuation of existing ecosystems;
10. Accessibility of the Preserved Open Space to substantially all of the dwelling units;
11. Variations in lot sizes, building styles, building sizes, and building arrangements;
12. Use of Preserved Open Space to protect significant natural environment such as but not limited to ground water recharge areas; wetlands that provide flood protection; stream valleys; outstanding vegetation; woodland; field and wetland habitat; or scenic spots; and to avoid development on geologically unsuitable land;
13. Avoidance of access via existing minor streets servicing single family homes, especially where Town Houses are sited.

## **8.8 CLUSTER DEVELOPMENT IN THE AP DISTRICT**

**8.8.1 Purpose.** The purpose of this Section is:

1. To permit an alternative use for land zoned for office use by allowing multifamily clustered residential development;
2. To preserve for the Town more open space, provide additional housing stock and enable the creation of some recreational space in such development;
3. To preserve the Town's water supply; and
4. To promote flood protection, woodland, field and wetland habitat, and conservation.

**8.8.2 Applicability.** The Planning Board may grant a special permit in the AP District for the construction and occupancy of a Cluster Development, provided that the gross land area of the parcel seeking such alternative development is at least 30,000 square feet. The applicant must either own, or submit the authorization in writing to act for all of the owners of the lots included in the parcel for which cluster development is sought.

**8.8.3 Permitted Uses.** The following uses may be undertaken under the alternative procedure and requirements provided for under this Section upon the grant of a special permit by the Planning Board:

1. Uses A.1, A.4 and A.5 of the Table of Use Regulations, provided that sufficient parking area exists on the lot in question to allow for off-street parking and free access of all such parked vehicles to and from the site without requiring the movement of any parked vehicle, or at least two vehicles per dwelling unit.
2. Town Houses.

**8.8.4 Relation to District.** In the event that the owner or owners of land included in an Overall Development Plan which has received Site Plan Approval pursuant to this Section obtain a building permit to develop such land as a cluster development, then the uses normally permitted or allowed in an AP District for such land shall no longer be permitted or allowed, and only the uses as allowed under the approved Overall Development Plan may be constructed or enjoyed on the land shown in the Overall Development Plan.

**8.8.5 Pre-Application Review.** To promote better communication and to avoid misunderstandings, the applicant is encouraged, prior to preparation of a formal application, to meet with the Planning Board and Planning Director for general discussion using the soil survey, drainage, topographic and other data available from the Town.

**8.8.6 Application.** The applicant for a cluster development in an AP District shall submit to the Planning Board a formal application for a special permit, which includes an Overall Development Plan, and is otherwise in compliance with Rule and Regulations especially established by the Planning Board relative thereto, unless the requirement is waived by the Planning Board in the special permit process. The application shall be filed in the name of the record owner(s) of the parcel(s) to be developed. Date of application shall be the date when filing is made with the Planning Board.

**8.8.7 Number of Dwelling Units.** The maximum number of dwelling units allowed in a AP Cluster Development shall equal the "net usable land area" as defined herein divided by 5,000, rounded to the next whole number. Provided that the resident parking required by Section 6.1 for each such unit is provided for in a garage, the maximum number of dwelling units shall be calculated by dividing the net usable land area by 3500, rounded to the next highest whole number. As used in this paragraph "net usable land area" shall mean one hundred (100%) percent of the resultant area obtained by subtracting (a) one hundred (100%) percent of the land area lying below the one hundred (100) year flood elevation as delineated on the Townwide Drainage Study maps as prepared by Coffin & Richardson Engineers (or as said maps may be revised, amended, or other similar maps substituted), and (b) one hundred (100%) percent of the primary zone wetland area (also as shown on said Townwide Drainage Study maps) which is shown

outside the limits of the one hundred (100) year flood elevation from the gross land area of the parcel or portion thereof for which Site Plan approval is sought. If the Overall Development Plan covers land lying in more than one zoning district, all of which districts permit alternative cluster development, the number of dwelling units allowed shall be calculated as provided in this By-law for each portion of the parcel in each of the zoning districts separately and the resultant determinations shall be added together to give an overall allowable total number of dwelling units for the parcel. Dwelling units and other allowed uses may be transferred between zoning districts included in the parcel for which Site Plan Approval is sought, being limited only by the overall allowable total, and by the design restrictions of the Overall Development Plan as approved.

**8.8.8 Intensity Regulations.** The following regulations shall apply to the Cluster Development permitted in the AP District:

1. Single family houses shall meet the requirements of the RSA zoning district as set forth in Section 4.0, except that the minimum frontage and depth of a lot may be 100 feet.
2. Multi-family structures shall be on lots having the following requirements:

Minimum lot area	30,000 square feet
Minimum continuous frontage	120 feet
Minimum depth	140 feet
Minimum front setback	30 feet with garage
Minimum side yard	20 feet
Minimum rear yard	25 feet
Maximum building coverage	20%
Maximum building height	35 feet, 2.5 stories

**8.8.9 Preserved Open Space.** In an AP District at least thirty five (35%) percent of the total land area of the parcel for which alternative development as a Cluster Development is desired hereunder, shall be preserved open space. All dwelling units shall abut such open space or be accessible thereto via a public way or easement. At least fifty (50%) percent of the open space shall not be primary zone wetlands or land within the 100 year flood elevation as hereto described. However, the Planning Board may waive or increase this requirement for a meritorious plan. The Special Permit authorizing the Cluster Development shall further provide that the open space shall be either:

1. Conveyed to and accepted by the Town of Natick under a conservation restriction

pursuant to M. G. L. Chapter 184, as amended; or

2. Conveyed to a non-profit organization, the principal purpose of which is the conservation of the open space; or
3. Conveyed to the owners of all of the lots within the Overall Development Plan as tenants in common , provide that title to such open space and to the lots is not separately alienable; or
4. Conveyed to a corporation or trust owned or to be owned by the owners of the lots or residential units within the parcel for recreation or conservation purposes, with each lot subject to a proportionate charge for its share of the reasonable and appropriate maintenance expenses.

If any of the methods 2, 3, or 4 is elected, in addition, the Town shall be granted an easement or restriction over such parcel sufficient to ensure its perpetual reservation for conservation, recreation or park land; and in the event the Town is required to expend funds for the reasonable and appropriate maintenance expenses of the Open Space, then each lot in the Overall Development Plan shall be subject to a proportionate charge for its share of the expenses. No more than one method shall be elected for the Open Space within any Overall Development Plan, unless the Planning Board shall approve otherwise. Designation of the method selected shall appear on the Overall Development Plan, and appropriate documents conveying such Open Space in accordance to the foregoing shall be delivered to the Planning Board prior to the issuance of any Building Permit.

**8.8.10 Special Permit Criteria.** Approval of the application for a Cluster Development Site Plan Approval shall be granted only upon Planning Board determination that the Plan is superior to that which might be developed under the regulations for the AP zoning district. The following criteria shall be used to make the determination as to whether or not the plan is superior:

1. the preservation and accessibility of open space for conservation or recreation;
2. the protection of significant natural features of the land;
3. the protection of historical or other significant features;
4. more efficient provision of street, utilities and other public services; or lowered impact thereon;
5. the provision of a diversity of dwelling unit styles, sizes, location and arrangement.

Some specific means of achieving these objectives include:

6. avoidance of frequent driveway openings onto through streets, or near street intersections;
7. avoidance of extensive topographic change, necessitating vegetation and tree removal;
8. increased vegetation and plantings to enhance the site;
9. preservation of scenic views from public ways;
10. creation of a more interesting and attractive arrangement of permitted structures;
11. accessibility of the Open Space to all inhabitants of the development;
12. variations in lot sizes, building styles, building sizes and building arrangements;
13. avoiding development on geologically unsuitable land.

## **SECTION 9.0 SPECIAL DISTRICT REGULATIONS**

### **9.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)**

**9.1.1 Purpose.** The purpose of the Flood Plain Overlay District is:

1. To preserve and maintain the ground water table;

2. To protect public health and safety, persons and property against the hazards of flood-water inundation; and
3. To protect the community against the costs which may be incurred when unsuitable development occurs in swamp, marshes, along water courses, or in areas subject to floods.

**9.1.2 Location.** The FPOD is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The FPOD includes:

1. All areas shown as being within the 100-year flood plain on the TOWN OF NATICK DRAINAGE STUDY, 100-YEAR FLOOD PLAIN MAP, 1" equals 100', September 1979 by Coffin & Richardson, Inc., Engineers, Boston, Massachusetts. As further described in the Drainage Report, Natick Massachusetts, September 1979 prepared by Coffin & Richardson.
2. All special flood hazard areas within the Town of Natick designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Natick are panel numbers 25017C0509E, 25017C0517E, 25017C0519E, 25017C0528E, 25017C0529E, 25017C0536E, 25017C0537E, 25017C0538E, 25017C0539E, 25017C0543E, 25017C652E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and the Department of Public Works.

**9.1.3 Discrepancy.** In the event of any discrepancy between the above delineations of the 100-year flood plain, the Building Commissioner, after consultation with the Natick Conservation Commission, shall determine which map will apply. The Natick Drainage Study can only be used in areas where the Base Flood Elevations are equal to or more restrictive than the FIRM and FIS.

**9.1.4 Permitted Uses.** In a FPOD, no structure or building shall be erected or extended and no premises shall be used except for one or more of the following uses:

1. Any woodland, grassland, wetland, agricultural, horticultural or recreational uses of land or water not requiring filling.

2. Buildings and sheds accessory to any of the Flood Plain Uses are permitted. Any such building or structure shall be designed, placed and constructed to offer a minimum obstruction to the flow of water, and it shall be firmly anchored to prevent floating away.

**9.1.5 Exceptions.** The following are permissible exceptions to Section 9.1.5:

1. No land, building, or structure shall be used for sustained human occupancy, except dwellings theretofore lawfully existing. Building permits shall be issued on request whereby buildings and structures theretofore lawfully existing may be repaired, restored, altered, enlarged, or rebuilt, and structures accessory to the existing use may be constructed in compliance with all other zoning laws and applicable state and municipal laws and regulations, provided that any such altered or rebuilt foundation shall not extend beyond the preexisting building foundation boundary. Any such preexisting use shall not be rescinded by any other part of this Section. For example, this shall pertain to preexisting buildings and structures which are subsequently damaged or destroyed by fire or disaster.

2. The following is a permissible exception to Sections 9.1.4 and 9.1.5: In any FPOD after the adoption of this provision, the Board of Appeals may issue a special permit for any use permitted outside a FPOD based on the following conditions:

- a. That any such use of such land will not interfere with the general purposes for which the FPOD have been established.
- b. That any such use of such land will not be detrimental to the public health, safety or welfare.
- c. The Board of Appeals will refer the question to the Planning Board, the Board of Health, the Board of Public Works, the Board of Selectmen and the Town Conservation Commission for recommendations.

**9.1.6 Floodway Regulations.** In the floodway, designated on the Middlesex County FIRMS as set forth above, the following special conditions must be met:

1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.

2. Any encroachment shall comply with the floodplain requirements of the State Building Code and Massachusetts Wetland Protection Act, G.L. Chapter 131, Sec. 40.



3. Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, Local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
4. All public utilities and facilities, such as sewer, gas electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.
5. Adequate drainage systems, by use of natural or non-structural drainage whenever possible, shall be provided to reduce exposure to flood hazards.

**9.1.7 Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.

**9.1.8 Other Regulations.** Except as provided above, there shall be in the Flood Plain District:

1. No land fill or dumping in any part of the District;
2. No drainage other than Flood-Control works by an authorized public agency;
3. No damming or relocation of any water course except as part of an over-all drainage basin plan;
4. No buildings or structure;
5. No permanent storage of materials or equipment.

**9.1.9 Notification.** In a river or stream situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities.
2. NFIP State Coordinator (currently located at)

Massachusetts Department of Conservation and Recreation  
51 Causeway Street, Suite 600-700  
Boston, MA 02114-2104

3. NFIP Program Specialist (currently located at)

Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor

**9.1.10 Reference.** All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

1. Section of the Massachusetts State Building Code which Addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, “Flood Resistant Construction and Construction in Coastal Dunes”);
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of the state regulations.

## **9.2. AQUIFER PROTECTION OVERLAY DISTRICT (APD)**

**9.2.1 Purpose.** The purpose of the Aquifer Protection Overlay Districts is:

1. To protect, preserve and maintain the existing and potential groundwater supply and recharge areas within the town;
2. To promote the health, safety and general welfare of the community;
3. To circumscribe aquifers and aquifer recharge areas and impose conditions, where such are necessary, for enjoying uses of the underlying land.

**9.2.2 Applicability.** This Section shall not apply to residentially used lots in the RS and RG Districts, however where more than 20% of such lots are hereafter proposed to be made impervious, roof runoff shall be directed to a pervious area or dry-well approved by the local building Commissioner.

**9.2.3 Location.** The APD includes land within the Town which is encompassed by the areas designated on the twenty-four (24) maps entitled "Aquifer Protection District, Town of Natick, Massachusetts", dated July 1985 and revised October, 1987, and drawn to a scale of 1:200, which maps also show the lot lines of the land according to the Assessors' Maps, and which are intended to include aquifers and aquifer recharge areas.

1. Where the exact location of the boundary line of an APD is in dispute as to any parcel, the owner thereof may seek an advisory opinion from the Conservation Commission, who shall employ the services of competent professionals such as hydrogeologists or soil scientists, all at the expense of the owner. The evidence so produced shall be maintained in the records of the Town by the Conservation Commission and shall be produced, along with any other pertinent evidence, whenever the issue of location of or re-delineation of the boundary of an APD comes before a Town Agency or the Town Meeting.

**9.2.4 Overlay District.** The APD is an overlay district. The regulations of the APD shall supersede those of the underlying districts when more stringent.

**9.2.5 Permitted Uses.** Unless specifically prohibited by Section 5 hereafter, or unless a special permit is required by this Section, the uses permitted by the underlying zoning either as a matter of right or by special permit, shall continue to be permitted or allowed by special permit in the APD.

**9.2.6 Prohibited Uses.** In the APD District, the Board of Appeals shall not grant a variance to allow any use which is prohibited by this Section, or allow any use not permitted as a matter of right or not allowed upon the issuance of a special permit in the underlying zoning district, except that the Board of Appeals may grant variances or special permits to allow a change in use pursuant to Section 5.0.

The following uses are specifically prohibited:

1. Disposal on-site of solid wastes, other than brush and stumps;
2. Storage of petroleum or other refined petroleum products except within buildings which it will heat, and except in connection with replacement of existing tanks;
3. The disposal of liquid or leachable wastes, except as permitted into subsurface waste disposal systems subject to regulation under Title 5 of the State Environmental Code;
4. The discharge on-site of industrial process liquids;
5. Storage of road salt or other deicing chemicals, except as packaged for consumer use;
6. The depositing of snow containing road salt or other deicing chemicals on a site which has been transported from off-site;
7. The storage of uncovered manure;
8. The permanent removal or regrading of the existing soil cover resulting in a finished

grade at a level below five (5) feet above the existing spring high water level;

9. The mining of land, except as incidental to the exercise of a permitted or conditional use hereunder;

10. The storage or disposal onsite of hazardous wastes, toxic or hazardous substances, or radioactive materials;

11. Junk and salvage yards;

12. Trucking and bus terminals;

13. Heliports and airports;

14. Car washes.

**9.2.7 Uses Allowed by Special Permit.** The following uses are permitted upon the issuance of a special permit by the Special Permit Granting Authority ("SPGA") designated in the underlying zoning district. In the absence of such designation, the Zoning Board of Appeals shall be the SPGA for the purposes of the APD.

1. The storage and or disposal of hazardous waste, toxic or hazardous substances or radioactive materials is permitted provided that such storage and or disposals are incidental and necessary to the exercise of any permitted use or use allowed by special permit in the APD. Prior to implementation of any storage or disposal as described above, full plans insuring protection of the Town's Water Supply, for such storage and disposal, shall be submitted to the SPGA.

2. The application of fertilizers for non-domestic or non-agricultural uses provided that such applications are made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport, deposition and sedimentation.

3. The operation of a coin operated noncommercial laundry facility provided that the property does not utilize a septic system for any purpose, and that all waste water is discharged into a town sewage line and that no dry cleaning fluids or similar hazardous or toxic substance is discharged into the sewer system.

4. Where more than 20% of any lot is hereafter proposed to be impervious, a special permit shall be required to permit such use, on condition that water shall be recharged to the aquifer to compensate for all impervious lot coverage greater than 20%.

5. Coin operated or commercial laundries, provided that all waste water and no other fluids, are discharged into a town sewage line.

6. Salesroom for motor vehicles, trailers, boats, farm implements, or machinery, with repair services and storage including used-car lots.
7. Craft, consumer, professional or commercial service establishments dealing directly with the general public.
8. Undertaking establishment or funeral home.
9. Repair garage for motor vehicles.
10. Auto body, soldering or welding shop.

**9.2.8 Special Permit; Procedures.** In addition to the requirements of the Rules and Regulations of the SPGA, the following additional requirements shall apply:

1. At least seven copies of any proposed plan for development shall be submitted to the SPGA. The plan shall contain:
  - a. A topographic map of the site at a scale of 1 : 200 or larger scale, from which surface runoff directions can be readily determined.
  - b. Evidence regarding the seasonal high groundwater elevation shall be provided.
  - c. A design to maintain aquifer recharge at pre-permit amounts where the impervious surface will exceed 20% of the lot area, and a design to cleanse and filter the runoff from such impervious surfaces recharged to the aquifer.
  - d. For industrial or commercial uses, an emergency response plan to prevent contamination of soil or groundwater in the event of accidental spills or the release of toxic or hazardous substances onsite.
2. The applicant may request in writing a waiver of any of the foregoing requirements in

paragraph 1, above, which request shall be communicated by the SPGA within three (3) business days of its receipt to the Planning Board (unless it is functioning as the SPGA with respect to such request), the Board of Health, the Conservation Commission and the Department of Public Works (hereinafter, the "Advisory Bodies"). Unless one of the Advisory Bodies communicates its decision to require the materials sought to be waived, within twenty two (22) days of the making of such request, the waiver may be granted by the SPGA.

3. The SPGA shall provide copies of the application and all other submittals of the applicant within three business days of filing to the Advisory Bodies for their recommendations. A public hearing on the application for a special permit may not be held prior to twenty two (22) days following the filing of the application.

4. In addition to any other requirements and conditions for granting a special permit, the SPGA, with respect to any application for a special permit in an APD, shall make a finding that:

- a. The proposed use is consistent with the purpose and intent of the APD;
- b. The proposed use is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
- c. The proposed use will not, during construction or thereafter, have an adverse environmental impact on the aquifer water supply;
- d. The proposed use will not adversely affect an existing or potential water supply
- e. In addition to any other considerations for the grant of a special permit in the underlying zoning district, the SPGA shall, in the case of commercial and industrial uses, impose appropriate conditions which prevent compaction and siltation of soil, loss of recharge, exfiltration from sewer pipes and contamination of the soil or groundwater by oil chemicals, and nutrients.

**9.2.9 Reports.** All reports of any of the Advisory Bodies, whether favorable or unfavorable, shall be retained in the official files of the SPGA regarding the related application for a special permit and shall be made available to the public.

### **9.3 PLANNED CLUSTER DEVELOPMENT DISTRICT (PCD)**

**9.3.1 Purpose.** The purpose of this Section is to provide for planned developments on large tracts of land, to be comprised of a mixture of types of dwelling units (with minor related business uses) at greater land use intensities than would otherwise be allowed for multi-family residences, but with larger open spaces between groupings of buildings. The Planning Board

shall be the SPGA.

1. This Section is set forth as a guide to various boards and officers of the Town concerned with the design, construction and operation of such planned developments. It is intended that conventional zoning requirements and procedures (applicable in other districts to smaller lots in individual ownership, fronting on streets suitable for acceptance as public ways and meeting uniform dimensional and area requirements) will be suitably altered in PCD Districts to give effect to sound development principles as reflected in the specific provisions of this By-law relating to such Districts.

2. Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations are allowed as of right.

**9.3.2 Eligible Area.** Only land areas containing 4,500,000 square feet or more shall be included in the PCD District.

1. Any land voluntarily conveyed to the Town for a public purpose by an owner of a lot in a PCD District, whether such conveyance occurs prior to or after completion of the development of such lot, shall be taken into account in determining compliance with the intensity regulations of Section 4.0.

**9.3.3 Design Objectives.** A PCD District should result in:

1. design of clustered subareas of buildings in accordance with an overall plan for the District;
2. economical and efficient street, utility and public facility installation, construction and maintenance;
3. separation of pedestrian and vehicular traffic;
4. a variety of dwelling types and characteristics;
5. preservation of permanent open space;
6. land use harmonious with natural features;
7. the preservation and enhancement of real property values for the long-range future;
8. reduction in total areas of paved surfaces;
9. an increase in the safety of pedestrian circulation and access; and

10. an increase in privacy for many dwelling units by removal thereof from streets or frontage thereon, with benefits to such units of separation from vehicular disturbance and closer proximity to landscaped and recreational areas.

**9.3.4 Vehicular Ways.** In a PCD District, a belt (collector) street shall be designed or constructed so as to be suitable for eventual acceptance by the Town. Radial ways or drives leading from such belt streets to clustered dwelling units or parking lots shall be considered as driveways for purposes of design or construction requirements. For improved traffic safety, pedestrian ways shall generally not be part of the street ways.

**9.3.5 Services.** In a PCD District it is expected that the owner will provide to the occupants thereof, certain services customarily provided by the Town in other districts, and the overall design, location of buildings and layout of streets and driveways shall take this factor into account.

**9.3.6 Business Uses.** The SPGA may grant a special permit for business uses, including parking and loading areas servicing such business uses, in a PCD District, for the purpose of providing a business area to serve principally the dwelling units constructed in the development of such PCD District.

1. The area devoted to business uses in any PCD District under a Special Permit shall in no case exceed five percent (5%) of the total land area of the PCD District concerned. No such special permit shall be granted for business uses in any PCD District until six hundred (600) dwelling units have been constructed in said District and certificates of occupancy issued therefor. No business establishment having a gross floor area in excess of seventy-five hundred (7,500) sq. ft. shall be allowed by special permit in any PCD District including parking and loading areas serving such business uses.

**9.3.7 Dimensional Regulations.** In the PCD District the following dimensional regulations shall apply:

Area	750,000 sq. ft
Frontage	360 ft.
Depth	600 ft.
Front yard	None
Side yard	None
Rear yard	None
Maximum % Building Coverage	25
Maximum Building Height	2.5 stories or 40 ft.
Open Space Requirement %	50

**9.3.8 Special Dimensional Regulations.**



1. In a PCD District and each subarea as hereinafter defined, an overall minimum of 4,500 square feet of land area for each dwelling unit. The number of dwelling units permitted under such overall minimum in a lot in a PCD District shall be the number arrived at by dividing the total square-foot area of the lot by 4,500. For the purposes thereof, "Subarea" shall mean any portion of a lot designed for 600 dwelling units or less. Each lot shall be divided into subareas in such a manner as the developer may choose, consistent with the foregoing, and the subarea embracing the building or buildings for which the developer seeks a permit hereunder shall be shown on the plan required under said Section. Within each subarea as designated on the developer's plan as aforesaid, dwelling buildings to be constructed shall be "clustered" into groups, each group containing at least three such buildings. Within each cluster there shall be no more than 2500 or less than 1500 square feet of land area per dwelling unit. (A "cluster" is defined as the area circumscribed by a line connecting exterior points of outer building walls of the dwelling buildings contained within a single group of buildings.)
2. In a PCD District all buildings shall be at least 50 ft. distant from any public way, at least 25 ft. distant from any lot line, and at least 30 ft. distant from any private way.
3. In a PCD District no one type of building designed for dwelling units (i.e. Garden Type Apartment House, Central-Type Apartment House or Town House) shall constitute more than 50 percent nor less than 10 percent of the number of all buildings constructed. Such ratio shall be applied to any portion of the entire tract designed for 600 dwelling units or less (subarea).
4. In a PCD District there shall be no buildings containing more than 30 dwelling units or measuring more than 240 ft. in length.
5. In a PCD District all buildings shall be separated from other buildings by a distance of 10 feet, or 10 percent of the length of the shorter buildings involved, whichever is the greater.

## **9.4 SMART GROWTH OVERLAY DISTRICT**

**9.4.1 Purpose.** The Smart Growth Overlay (SGO) District Program is established pursuant to Massachusetts G.L. c. 40R. It is the purpose of the SGO to encourage smart growth and increased housing production in the Town of Natick. Smart growth is a principle of land development that emphasizes mixing land uses, increases the availability of affordable housing by creating a range of housing opportunities in neighborhoods, takes advantage of compact design, fosters distinctive and attractive communities, preserves open space, farmland, natural beauty and critical environmental areas, strengthens existing communities, provides a variety of transportation choices, makes development decisions predictable, fair and cost effective and encourages community and stakeholder collaboration in development decisions.

**9.4.2 Establishment.** The Smart Growth Overlay District, hereinafter referred to as the “SGO District” is an overlay district having a land area of approximately 5.1 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map of the Town of Natick, “Northwest Quadrant.”

**9.4.3 Applicability of SGO District.** An applicant may seek development of a Project located within the SGO District in accordance with the provisions of the Enabling Laws and this Section, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in this By-law, such application shall not be subject to any other provisions of this By-law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

**9.4.4 Underlying Zoning.** The SGO District is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of this By-law governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section. Within the boundaries of the SGO District, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of this By-law governing the underlying zoning district(s).

**9.4.5 Administration, Enforcement, and Appeals.** The provisions of this Section shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 9 through 13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. Chapter 40A.

**9.4.6 Permitted Uses.** The following uses are permitted as of right for Projects within the SGO District.

1. Residential Projects. A Residential Project within the SGO District may include:
  - a. Single-family use, 2 and 3 family use, Multi-family Residential Use
  - b. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
  - c. Accessory uses customarily incidental to any of the above permitted uses.

**9.4.7 Number of Affordable Housing Units.** For all Projects not less than twenty percent (20%) of housing units constructed shall be Affordable Housing.

**9.4.8 Administering Agency.** A qualified housing entity will be selected to be the administering agency by the PAA (the “designating official”). In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGO District, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Home ownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conform to all requirements and are properly administered;
4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this Section are recorded with the proper registry of deeds.

**9.4.9 Affordability Information Submission Requirements.** As part of any application for Plan Approval for a Project within the SGO District, the Applicant must submit the following documents to the PAA and the Administering Agency:

1. A narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly;
2. Evidence that the Project complies with the cost and eligibility requirements of this Section;
3. Project plans that demonstrate compliance with the requirements of this Section; and
4. A form of Affordable Housing Restriction that satisfies the requirements of this Section.

These documents in combination, to be submitted with an application for Plan Approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

**9.4.10 Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
3. For an Affordable Home ownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
4. Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Natick.

**9.4.11 Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

**9.4.12 Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction which shall be no less than thirty years;
2. The name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction;

3. A description of the Affordable Home ownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Home ownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a Home ownership will be set;
7. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Home ownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
8. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;
9. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;
10. Provision that the restriction on an Affordable Home ownership Unit shall run in favor of the Administering Agency and the Town of Natick, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
11. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and the Town of Natick, in a form approved by

municipal counsel, and shall limit rental and occupancy to an Eligible Household;

12. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this By-law and containing such other information as may be reasonably requested in order to ensure affordability; and

13. A requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

**9.4.13 Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half (1/2%) percent of the amount of rents of Affordable Rental Units (payable annually) or one (1%) percent of the sale or resale prices of Affordable Home ownership Units (payable upon each such sale or resale), as applicable.

**9.4.14 Age Restrictions.** Nothing in this Section shall permit the imposition of restrictions on age upon all Projects throughout the entire SGO District. However, the Administering Agency may, in its review of a submission, allow a specific Project within the SGO District designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

**9.4.15 Phasing.** For any Project that is approved and developed in phases, the proportion of Affordable Housing Units and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h) shall be consistent across all phases.

**9.4.16 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section shall not be waived.

**9.4.17 Dimensional and Density Requirements.** Notwithstanding anything to the contrary in this By-law, the density and dimensional requirements applicable in the SGO District are as follows:

1. Pursuant to the requirements of this Section, an Applicant may construct in the SGO District any combination of single-family residential units, 2-3 family residential units, and multi-family residential units. A “Multi-family residential unit” is any structure containing four or more residential units.

2. Density: The maximum number of dwelling units allowed in the SGO District shall be:

- a. Single-family residential units: 8 units per acre.
- b. 2 and 3 family residential dwellings: 12 units per acre.
- c. Multi-family dwellings: 27.6 units per acre.

3. Intensity Regulations.

Continuous frontage	40 feet
Minimum depth	100 feet
Minimum front yard setback	25 feet
Minimum side yard setback	15 feet
Minimum rear yard setback	15 feet
Minimum setback from rail right of way	0 feet
Maximum building coverage	40%
Maximum building height	40 feet
Minimum open space	35%

**9.4.18 Parking Requirements.** The parking requirements applicable for Projects within the SGO District are as follows.

- 1. Number of parking spaces. Unless otherwise approved by the PAA, the following minimum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures, and shall be provided at a rate of 1.5 spaces per unit within a SGO District.
- 2. The PAA may allow for additional visitor parking spaces beyond the 1.5 spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided herein if sufficient information is submitted which appropriately addresses the need for overall parking upon the project site. The PAA is not obligated to make such reduction in the absence of overwhelming evidence necessary to satisfy parking demand

created by the subject project.

**9.4.19 Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

**9.4.20 Reduction in Parking Requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, negative impact surrounding areas, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

1. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
2. The availability of public or commercial parking facilities in the vicinity of the use being served;
3. Shared use of off street parking spaces serving other uses having peak user demands at different times;
4. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
5. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
6. Such other factors as may be considered by the PAA.

**9.4.21 Location of Parking.** Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

**9.4.22 Plan Approval.** An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of this Section, and shall be subject to site plan review and approval by the PAA. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws, subject to



site plan review. The following categories of Projects shall be subject to the Plan Approval process:

1. Any Residential Project
2. Any Project seeking a waiver.

**9.4.23 Plan Approval Authority (PAA).** The Natick Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGO District

**9.4.24 PAA Regulations.** The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

**9.4.25 Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of this Section.

**9.4.26 Preapplication.** Prior to the submittal of a Plan Approval submission, a Concept Site Plan may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Site Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Site Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards, site plan provisions and other requirements of the SGO District.

**9.4.27 Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, with the application fee(s) which are set forth in the PAA Regulations. The application shall be accompanied by a formal site plan and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of this Section, the application shall be accompanied by all materials required hereunder. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of

Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1" = 40') or larger], or at a scale as approved in advance by the PAA.

**9.4.28 Filing.** An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

**9.4.29 Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Appeals, Board of Health, Community Development Department, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Administering Agency, the Design Review Board, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

**9.4.30 Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

**9.4.31 Peer Review.** The applicant of a SGO District project shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith.

**9.4.32 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. The applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. The Project as described in the application meets all of the requirements and standards set forth in this Section and the PAA Regulations, or a waiver has been granted therefrom; and

3. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For all Projects, compliance with condition (2) above shall include written confirmation by the Administering Agency that all Affordability requirements have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**9.4.33 Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. The applicant has not submitted the required fees and information as set forth in the Regulations; or
2. The Project as described in the application does not meet all of the requirements and standards set forth in this Section and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
3. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

**9.4.34 Waivers.** Except where expressly prohibited herein, upon the request of the Applicant, the Plan Approval Authority may waive the dimensional and other requirements of this Section in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGO District, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section. The PAA is not obligated to render such waivers if it deems the project does not provide sufficient reason or benefit to the community.

**9.4.35 Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

**9.4.36 Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town

Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the Middlesex County Registry of Deeds or Middlesex County Registry District of the Land Court, as applicable, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

**9.4.37 Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

**9.4.38 Change in Plans after Approval by PAA.**

1. Minor Change. After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.

2. Major Change Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

**9.5 HOUSING OVERLAY DISTRICTS - OPTION PLANS I AND II (HOOP)**

**9.5.1 Purpose.** This Section creates overlay districts in selected areas of the Town in order to enhance the public welfare by increasing the production of dwelling units affordable to persons and households of low and moderate income in a manner consistent with the character of the downtown area. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, new housing developments in the HOOP Districts are required to contain a proportion of dwelling units affordable to persons or households of low and moderate income. This requirement will reduce sprawl by developing

land that is underutilized and is located in Natick Center where public transportation is available. Development under the provisions of this By-law, or under G.L. Chapter 40B, Sections 20-23 is encouraged to take place in the HOOP Districts. It is desirable in these overlay districts to provide for: pedestrian areas within and between housing complexes; public parks; open space and additional open space resulting from placing parking under buildings or underground. The Planning Board shall be the SPGA.

**9.5.2 Applicability.** The provisions of this Section may be utilized on any land located within the HOOP - I and HOOP - II districts, subject to the requirements and standards set forth in this Section.

1. All regulations of the underlying zoning districts shall apply within the HOOP - I and HOOP - II Districts, except to the extent that they are specifically modified or supplemented by regulations set forth in this Section. Where requirements and standards within the HOOP - I and HOOP - II Districts, as set forth in this Section, differ from or conflict with applicable requirements and standards set forth elsewhere in this By-Law, the requirements and standards established for the HOOP - I and HOOP - II Districts shall take precedence.

2. The following uses are permitted in the HOOP-I and HOOP-II districts: Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations.

**9.5.3 Density.**

1. The maximum number of dwelling units allowed in the HOOP-I District shall equal the net land area which shall mean the gross area of the parcel divided by 2,500 square feet, rounded to the nearest whole number. At least fifteen percent (15%) of this total number of dwelling units shall be Affordable Housing Units as defined in Section 200 herein (see also the definition of Subsidized Housing herein).

2. The maximum number of dwelling units allowed in the HOOP-II District shall equal the net land area which shall mean the gross area of the parcel divided by 3,500 square feet, rounded to the nearest whole number. At least fifteen percent (15%) of this total number of dwelling units shall be Affordable Housing Units as defined in Section 200 herein (see also the definition of Subsidized Housing herein).

3. The number of dwelling units allowed in the HOOP-I and HOOP-II Districts may be limited by the ability to provide adequate off-street parking, in accordance with the requirements of Section 6.1 of these By-Laws.

**9.5.4 Bonuses.** Where the SPGA, in its discretion, finds that, in addition to the project's meeting the requirements under site plan review under Section 11.7 of this By-law, the following criteria are met for parcels in the HOOP-I District, then the maximum number of dwelling units

allowed shall equal the gross area of the parcel divided by 1,500 square feet, rounded to the nearest whole number, and where the SPGA, in its discretion, finds that, in addition to the project's meeting the requirements under site plan review under Section 11.7 of this By-law, the following criteria are met for parcels in the HOOPBII District, then the maximum number of dwelling units allowed shall equal the gross area of the parcel divided by 3,000 square feet, rounded to the nearest whole number. The criteria to be met are:

1. The Site Plan offers the Town a landmark project with area-wide benefits;
2. The Site plan demonstrates an overall planning concept and design of individual structures and parcels that is consistent and harmonious with the existing town center streetscape and character and which strengthens the town center's integral and vital role in the greater community;
3. The Site Plan includes a professional landscape plan with substantial planting;
4. The Site Plan includes a lighting plan that lights the project in a pedestrian-friendly, aesthetically pleasing manner;
5. The Site Plan includes other elements found beneficial by the Design Review Board.

**9.5.5 Intensity Regulations.** The following regulations shall apply:

	HOOP – I	HOOP -II
Minimum lot area (sq. ft.)	15,000	20,000
Minimum continuous frontage (ft.)	100	100
Minimum lot depth (ft.)	75	75
Minimum front setback (ft.)	10	10
Minimum side yard (ft.)	5	5
Minimum rear yard (ft.)	5	5
Maximum building coverage (%)	40	40
Maximum building height (ft.)	40	40
Minimum open space (%)	35	45

**9.5.6 Open Space.** The open space requirement may be met with the provision of publicly accessible parks and walking trails on or off-site and located within the HOOP - I or HOOP - II

district. Each square foot of land provided as a public park, not to include wetlands, shall count as 1.5 square feet of required open space.

**9.5.7 Modification and Waivers.** The SPGA may modify and/or waive strict compliance with one or more of the regulations in any of the HOOP districts provided that it makes a specific finding, in writing, that such waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted, and further that such waiver and/or modification is necessary in order to encourage the creation of Affordable Housing units.

**9.5.8 Affordability.** Affordability shall be determined in accordance with the definition of Subsidized Housing found in Definitions. The Planning Board shall adopt rules and regulations regarding the sale or rental of all Affordable Housing units. Unless otherwise regulated by a Federal or State agency under a financing or other subsidy program, at least fifty percent (50%) of the Affordable Housing units shall be initially offered to residents and/or employees of the Town of Natick. Residency and employment in Natick shall be established through Town Clerk certification.

1. All Affordable Housing units shall be maintained as such in perpetuity, or for as long as legally permissible, by the use of appropriate restrictions in deeds, lease provisions or other mechanisms as permitted under the Massachusetts General Laws and as approved by the SPGA.

**9.5.9 Design Criteria.** The Applicant shall submit plans for all buildings, landscaping, and structures to the Design Review Board, which shall submit a report to the Special Permit Granting Authority for consideration during its special permit hearing. The Design Review Board report shall include its determination regarding the extent to which the proposed development meets any or all of the criteria set forth herein, and whether the project shown on the Site Plan is designed, located and constructed to afford the following:

1. Compatibility of architectural styles, scales, building materials and colors within the development;
2. Variations in façade, roof lines and interior layouts of dwelling units, including the design of units that are handicapped accessible;
3. Harmonious relationship of buildings and structures to each other and their environs with adequate light, air, circulation, privacy and separation; and
4. The capability for constant surveillance, orientation and recognition.

## **SECTION 10.0            HIGHWAY DISTRICTS**

### **10.1    HIGHWAY MIXED USE I DISTRICTS (HM-I)**

**10.1.1 Purpose.** The purpose of the HM-I Districts is to provide for large-scale development which may have an intermixture of office, industrial and/or commercial uses and to provide flexibility for creative land planning on large parcels of land along or near major highways.

**10.1.1 General.** Only those uses provided for below are permitted or allowed in a Highway Mixed Use I (HM-I) District. To the extent permitted by law, all other uses are prohibited.

**10.1.3 Permitted Uses.** The following uses are permitted as of right on all premises in HM-I Districts:

1. Any use permitted as of right in Industrial Two (IN-II) Districts.
2. Indoor Wireless Communications Facility (IWCF).
3. Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations.

**10.1.4 Uses Allowed by Special Permit.** The following uses are permitted on all premises in the HM-I District provided that a special permit is obtained from the Planning Board (SPGA) in accordance with the requirements of this By-law.

1. Any use permitted by a special permit in Industrial Two (IN-II) Districts.
2. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower.

**10.1.5 Permitted Uses on Large Parcels.** In addition to the foregoing uses, the following uses are permitted in HM-I Districts on premises with a minimum lot area in excess of 200,000 square feet and conforming to requirements of this Section hereinafter set forth:

1. Business or professional office or agency; bank or other financial institution; administrative office; clerical office; statistical office; establishment for research and/or development; craft, consumer, professional or commercial service establishment dealing directly with the general public; business training center;
2. The storage and parking of motor vehicles, with no provision for operations incidental to the servicing of such vehicles;
3. Printing or publishing establishment;



4. Restaurant, tearoom, lunchroom or other eating establishment serving food and beverages on the premises, and/or serving food and beverages and providing live or mechanical entertainment, and/or servicing customers outside of the building and/or serving premises of a hotel with or without accompanying entertainment, including without limitation all restaurants, cocktail lounges, room service facilities, and meeting and function rooms on hotel premises; provided any portion of a structure dedicated to such use is located at least one hundred (100) feet from the nearest residentially zoned district;
5. Library; museum;
6. Hotel; motel.

**10.1.6 Special Permit Uses on Large Parcels.** In addition to the foregoing uses, the following uses are permitted in HM-1 Districts on premises with a minimum lot area in excess of 200,000 square feet and conforming to the requirements of this Section provided a special permit is obtained from the Special Permit Granting Authority (SPGA) in accordance with the requirements of this By-law.

1. Indoor and/or outdoor amusement or recreational uses, excluding outdoor movie theaters, provided that any portion of a structure dedicated to such uses is located at least one (100) feet from the nearest residentially zoned district and that golf shall be by natural light only;
2. Private landing area to be used solely for the landing, taking off and storage of helicopters.

**10.1.7 Intensity Regulations on Large Parcels.** Where uses exist or are proposed which are permitted by Sections 10.1.4 and 10.1.5, the following intensity regulations shall apply in lieu of the intensity regulations set forth in Section 4.0. Where no such uses exist, the applicable intensity regulations and general requirements of Section 4.0.

Minimum lot area	200,000 square feet
Minimum continuous frontage	200 feet
Minimum depth	200 feet
Minimum front setback	85 feet (excluding staircases, ramps and other facilities required by law for the safe use of the structure)
Minimum side and rear yard	Where side yards or rear yards abut premises used for residential purposes, such yards shall

	maintain the following depth along said boundaries; 1.5 times the height of the structure located adjacent to said side yard or rear yard but not less than fifty (50) feet in width. There shall be excluded from the computation of side and rear yard depth, protrusions for staircases, ramps, and other facilities required by law for the safe use of the structure
Maximum building coverage	50% including accessory buildings
Maximum building height	75 feet

**10.1.8 Open Space Requirements.** A strip of landscaped open space at least four (4) feet in width shall be maintained at all side lot lines and rear lot lines. Along those portions of lot lines that abut residentially zoned districts, there shall be created and maintained a strip of landscaped open space of at least twenty (20) feet in width (including the foregoing strip) for any lot whose area is more than five (5) acres but less than ten (10) acres, with the ten (10) additional feet of width for each additional five (5) acres of lot area, but in no event shall it be required that any such open space be more than fifty (50) feet in width. Moreover, it shall not be required that any such open space be wider than the width of the respective existing side, rear or front yard of the premises, as the case may be, so long as such yard conforms with the requirements of these By-Laws. All such landscaped open spaces may be interrupted for pedestrian, vehicular and utility installation and access. All landscaping shall be constructed and maintained as provided in Section 6.3 of these By-Laws. No additional buffers shall be required under this Section at property lines at which the requirements of these By-Laws for landscaping adjacent to rights-of-way are satisfied.

**10.1.9 Compliance of Structures in Existence on January 1, 1979.** Notwithstanding the foregoing requirements, structures in existence on January 1, 1979, and improvements thereto, such as the addition of access and egress facilities, addition of new building facades and the addition of structural supports, shall be deemed to satisfy the requirements of (d) , (e) and (g) of this subsection. In addition, any structure in existence on January 1, 1979 may be altered and improved to a height in excess of seventy-five (75) feet so long as such alteration and improvement does not exceed the height of the highest portion of that structure in existence on January 1, 1979.

## **10.2 HIGHWAY MIXED USE DISTRICT (HM-II)**

**10.2.1 Purpose.** The purpose of the HM-II Districts is to provide for large-scale development which may have an intermixture of office, residential and/or commercial uses and to provide flexibility for creative land planning on large parcels of land along or near major highways.

**10.2.2 Permitted Uses on Small Parcels.** On lots located within an HM-II District containing two hundred thousand (200,000) square feet of land or less, all uses permitted as of right and all uses allowable on such lots on the issuance of a special permit by the Board of Appeals which were permitted or allowable in the zoning district within which said lots were located immediately prior to rezoning to an HM-II District shall respectively continue to be permitted or allowable uses.

**10.2.3 Permitted Uses on Large Parcels.** On lots located within an HM-II District containing over two hundred thousand (200,000) square feet of land or less, the following uses set forth in below shall be permitted as a matter of right:

1. Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations.
2. Indoor Wireless Communications Facility (IWCF).

**10.2.4 Overall Site Plan.** In the event the owner or owners of a lot, or several adjacent lots in an HM-II district, elect to develop their land under an Overall Site Plan, then the uses set forth hereunder may be permitted upon the grant of a special permit by the Planning Board. Where owners of adjacent lots wish to combine them for the purpose of seeking a special permit, they must submit a recordable agreement to the Planning Board with their application. Such agreement must be in a form that is satisfactory to the Planning Board and shall authorize the joint proposed development, and be binding upon their successors in interest. Such agreement shall be recorded upon approval of the special permit prior to the issuance of any building permit.

**10.2.5 Eligible Uses under an Overall Site Plan.** The following uses may be allowed in an HM-II District under an Overall Site Plan

1. Business or professional office or agency; bank or other financial institution, administrative office; clerical office; statistical office; establishment for research and-or development; craft, consumer, professional or other service establishment dealing directly with the general public; business training center;
2. Retail Stores;
3. Hotel or Motel;
4. Indoor amusement or recreation place provided that the building or portion of the building dedicated to such use is so insulated and maintained as to confine noise to the premises and is located at least two hundred (200) feet from the nearest residentially zoned district, and at least three hundred-fifty (350) feet from any existing residential structure.
5. Wholesale or retail office or showroom with inside storage of goods for sale on the

premises only;

6. Printing or publishing establishment;

7. Off street parking which may be surface or indoor;

8. Restaurant, tearoom, lunchroom or other eating establishment serving food and beverages, to be chiefly consumed on the premises, provided that any portion of a structure dedicated to such use is located at least two hundred (200) feet from the nearest residentially zoned district;

9. The serving of food and/or beverages, with or without accompanying entertainment, on the premises of a hotel, including, without limitation, all restaurant, cocktail lounges, room service facilities, meeting and function rooms on said premises, provided that any portion of a structure dedicated to such uses is located at least three hundred fifty (350) feet from the nearest existing residential structure.

10. Licensed Nursery Schools and/or Daycare Centers

12. Health Care or Retirement Facility

13. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower.

**10.2.6 Intensity Regulations for Small Parcels.** Uses permitted within small parcels as defined herein shall conform to Section 4.0 for the zoning district in which said small parcel was located immediately prior to rezoning to an HM-II District.

**10.2.7 Intensity Regulations for Large Parcels.** Uses permitted within large parcels as defined herein shall conform to Section 4.0 for the RSA Zoning District.

**10.2.8 Intensity Regulations under Overall Site Plan.** Where a lot or a group of lots are proposed to be included as one large parcel for purposes of seeking a special permit under 10.2.4, in addition to any general requirements of Section 4.0, the following regulations shall apply:

Minimum area to qualify for Overall Site Plan	8 acres
Minimum lot area	100,000 sq. ft.
Minimum continuous frontage for land in Overall Site Plan	200 feet along the major highway or along the access road from the parcel to the major hwy
Minimum lot frontage on major highway or access road	100 feet

Minimum depth	200 feet
Minimum front setback of buildings and parking from major highways	85 feet (excluding staircases, ramps and other facilities required by law for the safe use of the structure)
Minimum side and rear yard	No buildings shall be located closer than 100 feet to the side or rear lines of the parcel. Where the parcel abuts residentially zoned land the setback of structures shall be no less than 2 times the height of such structure, but not less than 100 feet. However, notwithstanding the foregoing, where the parcel abuts other commercially zoned land, or where the parcel abuts town owned land regardless of zoning classification, the side or rear yards of any lots so abutting shall be not less than fifty (50') feet. Exclude from the computation of side and rear yard depth, protrusions for staircases, ramps, and other facilities required by law for the safe use of the structure
Maximum building coverage	25 per cent, including accessory buildings; provided however, that a garage structure, to the extent that it provides parking for the number of parking spaces required in accordance with this By-Law, shall not be counted in determining building coverage. The portion of the garage building "footprint" to be counted towards building coverage shall be a fraction of the total building footprint area; said fraction having as its numerator the square foot area in the building devoted to accommodate the excess parking spaces, and having as its denominator the total square foot area in the garage building devoted to parking
Maximum building height	55 feet, but 75 feet if setback at least 200 feet from residential districts

**10.2.9 Buffer Requirements.** A strip of landscaped buffer area at least 50 feet in width shall be maintained at all side and rear boundaries of the parcel. Landscaping requirements for such

buffer strip shall be not less than those provided in Section 6.3. However, the Planning Board may provide for additional tree and/or understory plantings, fencing, terms, or any combination thereof which serve to adequately screen the uses on the parcel from surrounding residential uses; any such trees so required shall not be spaced closer than 15 linear feet and shall not be required to be taller than 12 feet when planted. Where the topography requires buildings shall be so sited as to minimize their being visible from surrounding residences. Said buffer area may be interrupted for drainage channels, ponding areas, pedestrian, vehicular and utility installations.

**10.2.10 Garages and Parking.** Garages may be used for indoor storage of motor vehicles. It is the intent of these provisions to reduce the amount of paved area that is included in a Site Plan to provide no more parking spaces than would otherwise be provided if standard size spaces were used.

1. Where roof parking is desired, all vehicles shall be screened laterally by a suitable parapet wall and roof lighting shall be screened laterally.
2. An off-street parking space may have a width of not less than 7.5 feet and a length of not less than 15 feet for angle parking or 18 feet for parallel parking, provided that no more than 50 percent of the off-street parking spaces are so dimensioned.

### **10.3 HIGHWAY MIXED USE - III DISTRICT (HM-III)**

**10.3.1 Purpose.** The purpose of the HM-III Districts is to provide for large-scale development which may have a mixture of office and/or commercial uses with the flexibility for creative land planning on large parcels of land near major highways.

**10.3.2 Permitted Uses.** The following uses are permitted as of right.

1. Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations.
2. Indoor Wireless Communications Facility (IWCF).

**10.3.3 Special Permit Uses.** The following additional uses may be allowed upon the issuance of a special permit by the Planning Board,

1. Business or professional office or agency, bank or other financial institution;
2. Hotel or motel;
3. Administrative office, clerical office, statistical office, or establishment for research and development;
4. Professional or commercial service establishment dealing directly with the general

public:

5. Business training centers;
6. Retail and wholesale sales including garden shops, open storage, restaurants which do not serve alcoholic beverages, and vehicle service centers which do not sell gasoline or diesel fuel.
7. The serving of food and-or beverages, with or without accompanying entertainment, on the premises of a hotel, including, without limitation, all restaurant, cocktail lounges, room service facilities, meeting and function rooms on said premises;
8. Off-street parking and other accessory uses normally incidental to the permitted uses.
9. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower.

**10.3.4 Intensity Regulations.** Uses permitted as of right shall conform to Section 4.0 for the RSA Zoning District. The following intensity regulations shall apply to the uses permitted by special permit in lieu of the intensity regulations set forth in Section 4.0. In addition, the requirements of Section 4.0 shall apply.

Minimum area and frontage to qualify for HM-III District	Area of 200,000 square feet and a frontage of 200 feet along the major highway or along a driveway or a subdivision road having a minimum paved width of 30 feet leading from the tract to the major highway
Minimum lot area and frontage	Area of 100,000 square feet and 100 feet of frontage provided they are within an overall tract of land which qualifies, above, and which lot or lots form part of an overall site plan submitted for approval as to a portion of the parcel containing such lot or lots
Minimum depth	200 feet
Minimum front setback of buildings	No buildings shall be located closer than 100 feet to the front line of the entire parcel. For this purpose the front line shall be the portion of the entire parcel abutting the major highway

Minimum side and rear yard	No buildings shall be located closer than 100 feet to the side or rear lines of the entire parcel. Where the parcel abuts residentially zoned land the setback of a building shall be no less than 2 times the height of such structure, but not less than 100 feet. However, notwithstanding the foregoing, where the parcel abuts other non-residentially zoned or used land the side or rear building setback so abutting such land shall be not less than fifty (50') feet. Exclude from the computation of such setback or yard depth, protrusions for staircases, ramps, and other facilities required by law for the safe use of the structure
Maximum building coverage	50 per cent, including accessory buildings
Maximum building height	75 feet

**10.3.5 Buffer Requirements.** A strip of landscaped buffer area at least one hundred and fifty (150) feet in width shall be maintained at side and rear boundaries of that portion of the land situated in Natick abutting single-family residentially zoned land which was not, on January 1, 1992, developed or used for hotel, motel or other commercial uses. Said buffer area shall be free of driveways, parking areas and buildings but may include terraces, retaining walls, terms, plantings, fences, drainage facilities and utilities. Where the side and rear boundaries of the entire tract of land abut non-residentially zoned or used land a landscaped buffer area at least ten (10') feet in width shall be maintained. Landscaping requirements for such buffer strip shall be not less than those provided in Section 6.3. However, the Planning Board may provide for additional tree and-or understory plantings, fencing, terms, or any combination thereof which serve to adequately screen the uses on the parcel from surrounding residential uses; and such trees so required shall not be spaced closer than 15 linear feet and shall not be required to be taller than 12 feet when planted. Where the topography requires, buildings shall be so sited as to minimize their being visible from drainage channels ponding areas, pedestrian, vehicular and utility installations.

**10.3.6 Garages and Parking.** Garages may be used for indoor storage of motor vehicles. It is the intent of this provision to reduce the amount of paved area that is included in a site plan to provide no more parking spaces than would otherwise be provided if standard size spaces were used.

1. Where roof parking is desired, all vehicles shall be screened laterally by a suitable parapet wall, and roof lighting shall be screened laterally.



2. An off-street parking space may have a width of not less than 7.5 feet and a length of not less than 15 feet for angle parking, or 18 feet for parallel parking, provided that not more than 50 per cent of the off-street parking spaces are so dimensioned.

#### **10.4 HIGHWAY PLANNED USE DISTRICTS (HPU)**

**10.4.1 Purpose.** The purpose of the HPU Districts is to provide for large scale development of various commercial uses in a manner that provides flexibility for creative land planning on large parcels of land which are surrounded by single family residential development, but which have frontage along a major four lane divided highway.

**10.4.2 Permitted Uses.** On lots located within an HPU District, all uses permitted as of right and all uses allowable on such lots upon the issuance of a special permit from the Board of Appeals, which were permitted or allowable in the zoning district in which said lots were located immediately prior to their being rezoned into an HPU District shall continue to be permitted or allowable uses, respectively, unless the owner or owners elect to develop their property under an Overall Site Plan as provided for in Section 10.4.3, and such Overall Site Plan is finally approved.

1. Indoor Wireless Communications Facility shall be permitted as a matter of right.
2. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower shall be allowed upon the issuance of a special permit by the Planning Board.
3. Uses A.1, A.4, A.5, C.4, C.5, C.6, D.3 and D.4 in the Table of Use Regulations.

**10.4.3 Eligible Uses in an Overall Site Plan.** In the event the owner or owners of a lot, or several adjacent lots in an HPU district, having in total a minimum area of 25 acres elect to develop their land under an Overall Site Plan then the uses permitted under Section 10.4.2 shall no longer be allowed and the following uses may be permitted upon the grant of a special permit by the Planning Board. Where owners of adjacent lots wish to combine them for the purpose of seeking a special permit they must submit a recordable agreement to the Planning Board with their application. Such agreement must be in a form that is satisfactory to the Planning Board and shall authorize the joint proposed development, and be binding upon their successors in interest. Such agreement shall be recorded upon approval of the special permit prior to the issuance of any building permit. The following are the only uses which may be allowed in such a development in an HPU District:

1. Business or professional office or agency; bank or other financial institution; administrative office, clerical office, statistical office, establishment for research and/or development; craft, consumer, professional or other service establishment dealing directly with the general public, excluding the sale of any goods;

2. Retail stores. An overall Site Plan may not show retail space which exceeds 20 per cent of the total developed floor space, excluding garages;
3. The surface or indoor storage and parking of motor vehicles, with no provisions for operations incidental to the sale or servicing of such vehicles;
4. Printing or publishing establishment;
5. Restaurant located within structures in existence prior to January 1, 1994 serving food and beverages to be chiefly consumed on the premises, with no facilities being provided to permit the serving or consumption of food or beverages outside of an enclosed structure, which restaurant shall not be open before 7:00 A.M. nor seat patrons for service after 11:00 P. M. provided that any portion of a structure dedicated to such use is located at least two hundred (200') feet from the nearest residentially zoned district.
6. Structures for indoor recreation uses available only to occupants or their guests, provided any portion of a structure containing such use is at least two hundred (200) feet from the nearest residentially zoned district, and at least three hundred-fifty (350) feet from any existing residential structure.
7. Wireless Communications Facility, including only a BMWCF, an AWCF, and co-locating a WCF on an existing free standing monopole or lattice tower.

**10.4.4 Intensity Requirements.** Lots in an HPU District shall conform to Section 4.0 applicable for the zoning district in which said lots were located immediately prior to rezoning to an HPU District.

**10.4.5 Special Intensity Requirements.** Instead of the foregoing requirements, and only where a lot or a group of lots are proposed to be included as one large parcel for purposes of seeking a special permit under Section 10.4.3, the following regulations shall apply:

Minimum area required for Overall Site Plan	25 acres
Minimum continuous frontage required for Overall Site Plan	1,500 feet on a 4-lane divided highway
Minimum front setback of buildings and parking	85 feet excluding staircases, ramps and other facilities required by law for the safe use of the structure
Minimum side and rear yard	No buildings shall be located closer than 150 feet to the side or rear lines of the parcel.

	Only garage structures may be located closer than 200 feet to the side or rear lines of the parcel. A setback from the side and rear boundaries of the parcel may be reduced to 50 feet if there is adjacent land outside of the parcel having a conservation restriction of a depth of at least 275 feet
Maximum building coverage	15 per cent, including accessory buildings and exclusive of structures devoted entirely to garages. Additional building coverage may be permitted in accordance with the following formula: Additional coverage for a garage structure equals No. of parking spaces provided within garage divided by Minimum No. of parking spaces required in By-law, multiplied by 10 percent. Provided, however, that in no event shall the total building coverage for garage structures exceed 10 per cent
Maximum building height	15 feet, if located between 150 and 200 feet of the side or rear property lines, and 36 feet beyond 200 feet of the side or rear property lines. Where the setback is reduced to 50 feet a building may be constructed up to a height of 36 feet

**10.4.6 Buffer Requirement.** A strip of landscaped buffer area 100 feet in width shall be maintained by means of a conservation restriction at all side and rear boundaries of the parcel. This buffer strip of landscaped space shall not be required where it abuts other land outside of the parcel which has been preserved by a conservation restriction, provided such other conservation land is at least 275 feet in depth. All landscaping shall be constructed and maintained as follows:

1. A continuous eight foot high berm shall be provided along the side and rear boundaries of the parcel except where the parcel abuts land which has been preserved by a conservation restriction, provided said conservation land is at least 275 feet in depth.
2. The berm shall contain plantings of evergreen trees that will reach a mature height of 30 feet or greater and which will form an effective year-round screen having an average spacing of 15 linear feet between them.
3. Understory plant materials must be at least 3 feet in height when planted and trees must be at least 12 feet in height when planted.

4. The berm and plantings required herein shall be completed and installed not later than three (3) years from the date the first building permit for the site is issued.

**10.4.7 Access.** Access to and from the parcel shall be limited to a single major entrance and exit to the 4 lane divided highway. Reasonable acceleration and deceleration lanes shall also be provided adjacent the highway. One additional exit to the highway may be provided in order to allow for handling peak exiting traffic, provided that it is so restricted to exiting traffic only.

**10.4.8 Garages and Parking.** Garages may be used for indoor storage of motor vehicles. It is the intent of this provision to reduce the amount of paved area that is included in a site plan to provide no more parking spaces than would otherwise be provided if standard size spaces were used.

1. Where roof parking is desired, all vehicles shall be screened laterally by a suitable parapet wall, and roof level lighting shall be screened laterally. Where garages are constructed at the minimum permitted setback, no surface parking or roadways shall be permitted between such building and the adjacent buffer strip. However, emergency access ways may be provided, where necessary, surrounding each garage structure.

2. Where garages are constructed at a height which prevents their being screened by vegetation or trees, adequate architectural treatment shall be given to the garage structure to achieve reasonable and appropriate compatibility with the other structures in the development. For the purpose of this HPU district, and notwithstanding any other provision of these by-laws, an off-street parking space may have a width of not less than 7.5 feet and a length of not less than 15 feet for angle parking, or 18 feet for parallel parking, provided that no more than 50 per cent of the off-street parking spaces are so dimensioned.

## **10.5 HIGHWAY OVERLAY DISTRICTS**

**10.5.1 General.** The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. The purpose of the Highway Overlay Districts is to manage the intensity of development and the quality of design along major highway corridors so as to protect the public health, welfare and safety of the inhabitants of the Town, and to enhance the economic - vitality of the Districts. In particular, the HOD Districts are designed to limit congestion, to preserve environmental qualities, to improve pedestrian and vehicular circulation, and to provide for mitigation of any adverse impacts resulting from increased development in a complex regional center, and in the corridor leading thereto. In addition to these purposes, the open space and landscaping provisions of this Section are designed to foster development that is of high visual and aesthetic quality. Furthermore, it is a specific purpose of the HOD to establish parallel and consistent zoning regulations for highway corridor areas which are shared by the Towns of Framingham and Natick, in order to achieve a

unified development character for such areas and to avoid substantive and procedural conflicts in the regulation and administration of land uses within such areas. The HOD regulations establish a system whereby a development may attain a greater density than allowed by right, in return for providing public benefit amenities which compensate for one or more specific effects of increased density. These amenities may include traffic improvements (to accommodate increased traffic), pedestrian or transit improvements (to reduce traffic generation), creation of additional open space and public parks (to compensate for increased congestion and concentration of economic activities), provision of public assembly areas (to foster more balanced development and a sense of community), and provision of affordable housing (to compensate for increased pressure on local housing markets as a result of employment and service growth). The provision of increased development density in return for such amenities is specifically authorized by G.L. c. 40A, s. 9, with respect to open space, affordable housing, traffic and pedestrian amenities, and is also generally authorized for other amenities.

**10.5.2 Relationship to Underlying Districts and Regulations.** There are four such overlay districts: the Regional Center Mixed Use Overlay District (RCP), the Mall Center Overlay District (MC), the Regional Center Overlay District (RC), and the Highway Corridor Overlay District (HC). The Mall Center Overlay District overlays a portion of the Regional Center Overlay District. The Regional Center Mixed Use Overlay District overlays a portion of the Mall Center Overlay District and a portion of the Regional Center Overlay District. The Highway Overlay Districts are overlay districts. All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified, supplemented, or superseded by other provisions of the applicable Highway Overlay District. Any proposed development or alteration of a parcel within the Highway Overlay District must also comply with all applicable additional requirements of the underlying zoning regulations, as well as with the regulations of the Highway Overlay District.

**10.5.3 Prohibited Uses.** The following uses are prohibited in the MC, RCP and RC districts:

1. Salesroom for motor vehicles, trailers, boats, farm implements or machinery, with no repair services excluding used-car lots.
- 2.. Salesroom for motor vehicles, trailers, boats, farm implements, or machinery, with repair services and storage including used-car lots.
3. Repair garage for motor vehicles.
4. Commercial parking lot or parking garage, filling or service station.

**10.5.4 Exemption.** Lots in a Highway Overlay District exclusively used or zoned for single or two family residential development are exempt from these regulations, regardless of the underlying Zoning District classification.

**10.5.5 MC District.** The MC District is an overlay district established in that area of Town which is already substantially developed for commercial purposes, but which may be further intensively developed so as to foster the implementation of significant infrastructure improvements within the Town and improve the Town's tax base. To the extent there is inconsistency between provisions of the MC District and the underlying district (including the RC District), the provisions applicable to the MC District shall govern.

**10.5.6 MC District; Uses.** All uses permitted or allowed in the underlying zoning districts (including the RC District) shall be permitted or allowed respectively on land in the MC District. In addition, hotel and motel use (including serving of food and/or permitted beverages), as well as shopping mall use, shall be permitted in the MC District. "Shopping mall use" shall include those uses customary in shopping malls, e.g., retail stores, service establishments, restaurants, and entertainment uses, in multiple stores in a building or group of buildings containing no less than two (2) levels (each of which levels is principally devoted to selling or providing service or entertainment to customers), and in which access to the majority of stores is via an enclosed pedestrian mall or malls, and in which no less than thirty-five (35%) percent of the gross floor area leased to tenants is devoted to individual stores having a floor area of less than 15,000 square feet. Access drives and parking facilities serving such buildings, whether such facilities are below or above ground or below such buildings or in separate structures, located on the same lot or an abutting lot shall also be permitted as an accessory use to such shopping mall use.

**10.5.7 HC District.** Lots zoned for single- or two-family residential development with frontage on Worcester Street may double the number of units permitted by the underlying zoning. Structures must comply with the Intensity Regulations in the underlying zoning with the following exceptions: minimum lot depth shall be 90' and maximum building height shall be twenty-eight (28) feet. No detached structures are permitted on these properties. Under the provisions of this Section, developers shall be required to contribute to the Town's stock of affordable housing. One affordable housing unit shall be provided on each lot developed under this Section. Each such affordable housing unit shall contain at least two (2) or more bedrooms designed for family occupancy, and shall be substantially the same as the market rate units; or in the alternative the developer may choose to make a gift in the amount of five percent (5%) of the sale price of all units to the Town of Natick for affordable housing purposes, all subject to the approval of the Special Permit Granting Authority.

**10.5.8 RCP District.** The RCP District is an overlay district established in respect of land which, because of its location and an existing developed condition, can be redeveloped intensively for a combination of multi-family residential and commercial purposes without a material impact on natural resources and with financial and other benefits to the Town that will result in: An increase in the supply of affordable housing in the Town; Substantial contributions to the acquisition and preservation of open space; and Improvement of the infrastructure of the Town and the region as a whole. The RCP District shall not be restricted to be a residential district.

**10.5.9 Inconsistencies.** To the extent that there are inconsistencies between the provisions of the RCP District and the underlying district (including the RC District and the MC District), the provisions applicable to the RCP District shall govern even if such provisions are more permissive in the RCP District than in underlying and other overlay districts.

**10.5.10 RCP District; Uses.** All uses permitted or allowed in the underlying zoning districts (including the RC District and the MC District) shall be permitted or allowed respectively on land in the RCP District. The portion of a Regional Center Mixed Use Development devoted to multifamily residential use shall be permitted only by special permit, and site plan approval under Section 11.7. Such special permit may authorize the use of parking spaces located on other parcels in the Regional Center Mixed Use Development to satisfy the parking requirements for buildings located on other parcels in the Regional Center Mixed Use Development. The Planning Board shall have the authority to include in any such special permit conditions obligating the applicant to fund the reasonable cost of any special equipment or training that may be required for personnel of town departments to mitigate public safety impacts of such multifamily residential use. The Planning Board shall also have the authority, by issuance of a special permit therefor, to allow the Affordable Housing Standard to be met through the use of off-site affordable units.

1. The portion of a Regional Center Mixed Use Development devoted to shopping mall use shall be permitted by special permit by the Planning Board and site plan approval under Section 11.7.

**10.5.11 Mixed Use Developments.** Mixed Use Developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district. The provisions of Section 10.5.10, and not this Section 10.5.11, shall be applicable to a Mixed Use Development, including the residential component, in a Regional Center Mixed Use Development.

**10.5.12 Certain Multifamily Residential Uses.** In the RC district, hotels, motels, assisted living facilities, and similar multifamily development may be allowed by special permit granted by the Planning Board, subject to all requirements of the underlying district(s), and modified by the dimensional and other intensity regulations of this Section. Combinations of such residential and nonresidential uses may also be allowed in the RC district, subject to the requirements of each individual use as set forth elsewhere in this By-law. The provisions of Section 10.5.10, and not this Section 10.5.12, shall be applicable to a Mixed Use Development, including the residential component, in a Regional Center Mixed Use Development.

**10.5.13 Wireless Communication Facilities.** In the RC District or MC District, Wireless Communication Facilities, including FSWCF, BMWCF, IWCF AND ACWF, but excluding lattice towers, may be allowed by special permit granted by the Planning Board.

## ***ADULT USES***

**10.5.14 Purpose.** It is the purpose of this Section governing Adult Uses to address and mitigate the secondary effects of the Adult Uses and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Natick and its inhabitants.

1. The provisions of this By-Law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this By-Law to restrict or deny access by adults to Adult Uses or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this By-Law to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

**10.5.15 Authority.** This By-Law is enacted pursuant to G.L. Chapter 40A and pursuant to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain Adult Uses for the purposes set forth, above.

**10.5.16 RC District; Special Permit.** Adult Uses shall be allowed in the RC district only upon the grant of a special permit by the Planning Board acting as the Special Permit Granting Authority (SPGA), subject to the following limitations:

1. Land in the RC district in which the underlying zoning is Highway Mixed Use III (HM-III) is specifically excluded.
2. The underlying zoning district permits a retail store use, or a variance has been issued permitting such retail store use, in the premises in which the proposed adult use is to take place.
3. The premises in which the proposed adult use is to take place is located a distance of at least three hundred (300) feet from all of the following: the Town boundary line, a residential district zone boundary line, a church, a public or private school, park, playground or child care or day care facility.
4. No premises containing an adult use shall be located within five hundred (500=) feet of any other premises containing an adult use.



5. No premises containing an adult use shall be located in any premises having a liquor license.
6. No special permit for an adult use shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63, or of G.L. c. 272, s. 28.
7. The permitted adult uses described herein specifically excluded disseminating or offering to disseminate to minors materials which depict, describe or relate to nudity or sexual conduct as defined in G.L. c. 272, s. 31, or allowing minors to view live entertainment which includes the display of nudity. Permitting minors to view displays or linger in an area of the premises where such materials are located, or where such live entertainment is presented, shall be deemed evidence of violation of this action.
8. No materials described in the definitions of adult uses in Section 11 that depicts, describes or relates to nudity or sexual conduct as defined in G.L., c. 272, s. 31, shall be so located in or on the building housing such adult use which is visible to the public from the outside of the premises in which an adult use is permitted. No advertising, or other materials, whether displayed in the window or affixed to the building shall be permitted which depicts, describes or relates to nudity or sexual conduct as defined in G.L., c. 272, s. 31.

**10.5.17 Prior Existing Adult Uses.** Any adult use in existence prior to the adoption of this Section shall apply for a special permit from the SPGA having jurisdiction, according to the SPGA designation provided for under Section 11.6, within ninety days following the adoption of this Section. Special permits issued hereunder shall be subject to the following conditions:

1. The square footage in the premises occupied by the prior existing adult use, the percentage of revenues attributable to the display of live nudity and the percentage of the time devoted by a business to the provision of live entertainment for its patrons, which includes the display of live nudity, which exists as of the date that this Section was adopted, shall not be permitted to be increased thereafter unless the adult use was in existence in the RC district.

### ***INTENSITY REGULATIONS***

**10.5.18 Base Floor Area Ratio (FAR) for Nonresidential Development in the RC, HC and MC Districts.** For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified in this Section 10.5.18 to 10.5.29. The base FAR of 0.32 shall supersede any existing building coverage limitation in the underlying zoning district which would have the effect of reducing the base FAR to a value lower than 0.32, e.g. in the Commercial II Zoning District the present intensity regulation only allows for building coverage of 30%, which would now be increased to 32% for one story buildings on lots in the RC or HC Districts. However, all

nonresidential development shall still be subject to the requirements of all other applicable zoning regulations in the underlying zoning district.

**10.5.19 Increase in FAR for New Construction with Public Benefit Amenities in the RC District and in Highway Mixed or Planned Use Developments of 10 or More Acres in the HC District.** The following regulations shall apply:

1. The Planning Board, may, by Special Permit, grant an increase in the maximum floor area ratio (FAR) above 0.32, up to a higher FAR in the following instances:
  - a. Up to a maximum FAR of 0.50 for parcels located in the Regional Center (RC) overlay zoning district;
  - b. Up to a maximum FAR of 0.40 for parcels located in the HC District having a size of 10 or more acres, and where the underlying zoning is Highway Mixed Use I, II or III Districts, or is Highway Planned Use District, or where a portion of the parcel lies outside those underlying zoning districts but is used for building, parking, detention or retention basins, or other uses associated with any project or development which uses 10 or more acres in the HC district.
2. The foregoing increases in FAR shall be subject to the requirements following hereafter.
  - a. Increased pervious landscape surface shall be provided in accordance with this Section.
  - b. Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined in accordance with the schedule of bonuses set forth in Section 10.5.50 to 10.5.57. A FAR increase shall be granted only if the Board makes the findings required in Section 10.5.27.

**10.5.20 Increase in FAR for Consolidation of Lots in the RC or HC Districts.** In order to encourage consolidation of lots, the Planning Board may, by Special Permit, grant an increase in the floor area ratio above 0.32. Such increase in FAR shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, up to a maximum FAR of 0.40, or an increase of 12,000 square feet, whichever is the lesser. A FAR increase shall be granted only if the Board makes the findings required in Section 10.5.27 and determines that the proposed consolidation will achieve the Objectives and Standards following hereafter.

**10.5.21 Objectives and Standards.**

1. The coordinated development shall be designed to reduce the number of curb cuts and signs and to provide access improvements, unified landscaping, and a higher standard of

site design than would be possible with separate Development of the individual lots.

2. Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.
3. The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).
4. Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts:

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alterations up to the maximum FAR permitted under these Highway Overlay District regulations. Such increase shall be granted only if the Planning Board makes findings required in Section 10.5.27. A special permit is not required for a minor alteration which does not exceed a FAR of 0.32, unless so required elsewhere in this Section, or so required under the underlying zoning district regulations.

**10.5.22 Maximum FAR for Multifamily Residential Developments.** The Planning Board may permit a FAR up to 0.55 in those certain multi-family residential developments as described herein. In the RCP Overlay District in respect of a residential project which provides units, on or off the parcel, as applicable, in accordance with the Affordable Housing Standard, the Planning Board may permit a FAR up to 1.00 solely for a Regional Center Mixed-Use Development that meets the Affordable Housing Standard. This provision shall not be applicable to Multi-Family Residential Uses permitted under 10.5.12.

**10.5.23 Areas Excluded from FAR Computation in All Districts.** The floor area of the following types of facilities shall not be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the MC, RCP, HC or RC district:

1. Child care centers licensed by the State Office for Children.
2. Off-street parking facilities and associated ramps and aisles.
3. Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and vanpooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.
4. Cafeterias intended primarily to service occupants of a structure at the site.
5. All square footage contained in a hotel or motel shall not be included in the gross floor

area.

**10.5.24 Areas Excluded from FAR Computation in the MC District.** In the MC District the following shall not be included in gross floor area for computing the floor area ratio:

1. Equipment rooms, including rooms containing heating, air conditioning or other mechanical equipment servicing a permitted or allowed use, and offices devoted to operational matters of a shopping mall, including rest rooms and waiting or rest areas.
2. Areas of a shopping mall building (including pedestrian bridges) not devoted to occupancy by a tenant or occupant, which are principally intended to provide access between stores, even though vendors may, from time to time, maintain kiosks or other portable displays therein shall not be included in the gross floor area, provided, however, that the floor area actually occupied by such kiosks or any display fixture shall be included in the gross floor area to the extent such occupied areas exceed 10% of such access areas.
3. Areas of a building within a Regional Center Mixed Use Development devoted to residential use other than for the exclusive occupancy of an individual tenant or occupant.

**10.5.25 FAR for Mixed Use and Mixed Zoning District Developments.** Except for a Regional Center Mixed Use Development, the following regulations shall apply to proposed developments on parcels which include both residential and nonresidential zoned lots or portions thereof, or which include both residential and non-residential uses:

1. Developments on parcels which include lots permitting both residential and nonresidential uses, where such proposed developments will include residential floor area and non-residential floor area:
  - a. Non-bonus projects:  $\text{Maximum FAR} = (\text{Non-residential floor area percentage} \times 0.32) + (\text{Residential floor area percentage} \times 0.55)$
  - b. Bonus projects:  $\text{Maximum FAR} = (\text{Non-residential floor area percentage} \times 0.40) + (\text{Residential floor area percentage} \times 0.55)$
2. Developments on parcels that include at least one residentially zoned lot, as well as lots permitting non-residential uses, where such proposed developments will consist of only non-residential floor area. Projects which include combinations of residentially zoned lot(s), as well as non-residentially zoned lot(s) located contiguous to such residentially zoned lot(s); and in which no construction of new residential floor area is proposed by the project, shall be required to:
  - a. Remove all existing structures on the residentially zoned lot(s). In addition, no

new structures or commercial parking shall be placed on the residentially zoned lot(s).

- b. Provide open space for public ownership, or exclusive long term use, in an amount equal to three times the area of the residentially zoned lot(s) to be added to the Project [hereinafter, "Compensating Open Space"]. Such Compensating Open Space to be so provided shall contain not more than twenty (20%) percent wetland, and shall be of such quality, in the opinion of the Planning Board, as to be able to accommodate active Park use as defined herein. The Compensating Open Space may have any zoning classification. The Planning Board may waive the twenty (20%) percent wetland limitation if it makes a finding that the Park would be enhanced by permitting a larger percentage of wetland, not to exceed fifty (50%) percent of the Compensating Open Space.
- c. In the event such Compensating Open Space is not offered at the time of the application, nor offered during the hearing on same, and evidence is submitted by the applicant satisfactory to the Planning Board that after reasonable efforts the applicant was unable to obtain such Compensating Open Space either in any amount, or in a lesser amount than required by paragraph b, above, then applicant shall provide "Adequate Security" for the acquisition of such Compensating Open Space. Such Adequate Security shall be provided by a bond or surety agreement, a letter of credit, a tri-partite agreement including a bank as a contracting party, a deposit of monies or negotiable securities, or other similar arrangement sufficient in the opinion of the Planning Board to secure the performance of the condition of providing Compensating Open Space.
- d. The amount of such Adequate Security, where the event described in paragraph c, above, occurs, shall be equal to the percent of Compensating Open Space that will not be so provided times 1.5 times the "Residential Market Value" of the area of the residentially zoned land which is included in the Parcel, where Residential Market Value is defined as follows: A the market value of the area of the residentially zoned land in the parcel determined as if such land contains no wetland; is devoid of structures or pollution of any kind; and is based on the total land area divided by the minimum residential lot area in the district, without adjustment for roads and/or access ways. Such calculation shall be subject to review and approval by the Planning Board.

**10.5.26 Density on Parcels Where Portion Dedicated to Town or Commonwealth.** Subject to the other provision of this Section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership as a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

**10.5.27 Findings Required for a FAR Increase.** In granting a FAR increase over the base FAR, as well as any increase in the FAR where a special permit is required under this Section, the Planning Board shall make a specific finding, in writing, that the following conditions are met:

1. That the increase in FAR shall not result in a development which is substantially more detrimental to the neighborhood than the existing structure or use. In the case of new construction, that the increase in FAR shall result in a development that shall not be substantially more detrimental to the neighborhood than the project at the base FAR of 0.32.
2. The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.
3. The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the base FAR of 0.32.
4. That the proposed consolidation of lots for development purposes, or minor alteration of a structure, satisfies all of the criteria and standards of Section 11.7.

**10.5.28 Increased FAR for Parcels in MC District.** In order to foster redevelopment of parcels in the MC District that will provide for substantial infrastructure improvements and significant additions to the Town's tax base, the Planning Board may grant special permits to increase the FAR to .60 for one or more parcels (or portions thereof) concurrently which are in the MC District, containing not less than 40 contiguous acres (either as an individual parcel or in combination), when the requirements of this Section 10.5.28 are met and the bonus requirements of Section I of Bonuses are satisfied. Where such parcels (or portions thereof) are in separate ownership, the owners thereof shall join in the application for such special permit, but such parcels (or portions thereof) need not be combined under the Subdivision Control Law nor shall be treated as a single parcel for purpose of the application of the other requirements of this zoning by-law and may be used and further developed independently of each other except that the FAR of such parcels (or portions thereof) in the aggregate shall not exceed the FAR authorized under such special permits.

1. For purposes of the application of the bonus requirements of this Section to developments in the MC District for which such special permits are requested, the bonus requirements shall be applicable only to the extent the proposed FAR on all parcels included in the applications for such special permits exceed the then existing FAR of such parcels. If existing buildings are demolished, the bonus requirements shall not be applicable to the FAR for new construction to the extent of the floor area of the buildings

so demolished.

2. The applicants under such a special permit may also elect, if the FAR of one of the parcels is less than .32, to allocate the excess floor area that could be developed on such parcel without exceeding FAR of .32 to the other parcels included within such application. The allocation of such excess floor area shall be set forth in such special permit and no bonus requirement need be fulfilled in connection therewith; provided, however, that any further construction on the parcel whose excess floor area is allocated to such other parcel shall be treated as if such excess floor area had been constructed on the parcel from which it is allocated.

**10.5.29 Criteria.** In granting a special permit for an increase in FAR under Section 10.5.25, the Planning Board shall make, in lieu of the finding required in Section 10.5.27, a specific finding, in writing, that the following conditions are met:

1. The parcel (or if parcels, the parcels in the aggregate) included in such application have an existing FAR in excess of .32;
2. The increase in FAR shall not result in a development which is substantially more detrimental to the neighborhood than the use of the lots as then improved;
3. The increase will achieve the goals, objectives and interests of the MC District regulations; and
4. The project, with such increased FAR, shall satisfy all of the criteria and standards of Section 11.7.

***OPEN SPACE REGULATIONS***

**10.5.30 Single Use Projects.** In any Highway Overlay District, the following shall be required.:

1. The minimum required landscape surface ratio (LSR) for projects having a FAR of 0.32 or less shall be:
  - \* 0.20 for retail, consumer service and manufacturing uses;
  - \* 0.30 for those certain multi-family residential developments in the RC district as described in Section 10.5.11; and
  - \* 0.40 for office, research and development and other similar non-retail, non-residential uses.
2. Increase in Landscape Surface Ratio (LSR) required for Bonus Projects in any Highway Overlay District. The minimum required landscape surface ratio (LSR) for projects having a FAR greater than 0.32 shall be the sum of:

(the base LSR determined by this Section) +  
(one-half of the difference between the proposed FAR and 0.32)

3. Notwithstanding any other provision in this Section, the minimum landscape surface ratio for projects in an MC District shall be 0.25, regardless of the FAR. In calculating the LSR in an MC District, the numerator of the LSR shall include pervious and landscaped areas, including areas in a parking structure that are utilized for landscaped areas, such as planting structures containing plant material. In calculating the LSR in an MC District, where two or more parcels are being redeveloped for shopping mall use and one of the parcels has been devoted to shopping mall use, the LSR for the parcels, on a combined basis, shall be no less than 0.20 as long as the LSR for each of the parcels prior to the redevelopment is not reduced and for the parcel being converted to shopping mall use, the LSR is at least 0.25.

**10.5.31 Mixed Use Projects.** The minimum required LSR for mixed-use developments (other than for a Regional Center Mixed Use Development) shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

1. Projects Having an FAR of 0.32 or Less. The minimum required landscape surface ratio (LSR) for projects having a FAR of 0.32 or less shall be equal to the:

(Percentage of floor area for retail, consumer service and manufacturing uses) x 0.20] +  
(Percentage of floor area for certain multi-family residential development in the RC district as described in Section 10.5.12 x 0.30] +  
(Percentage of floor area for office, research and development and other similar non-retail, non-residential uses) x 0.40]

2. Projects Having an FAR Greater than 0.32. The minimum required landscape surface ratio (LSR) for projects having a FAR greater than 0.32 shall be equal to:

(the minimum LSR determined in accordance with Section 10.5.31) +  
(the proposed FAR B 0.32)/2

**10.5.32 Deficiencies in LSR.**

1. Multi-family residential developments. For multi-family residential developments only, up to ten percent (10%) of the required landscape surface area may consist of impervious recreational facilities, e.g. tennis courts, swimming pools, etc.

2. Deficiency in LSR in the RC District. In connection with the redevelopment of a Parcel only for office, research and development and other similar non-retail, non-residential uses in the RC district, where one or more prior-existing structures are to



remain, a proposed new or revised Final Site Plan may show a deficiency from the required minimum LSR (hereinafter, the LSR Deficiency). The LSR Deficiency shall be determined in square footage, and shall be = [(the minimum required LSR calculated under this Section) - (the LSR shown on the proposed new or revised Final Site Plan)] times (the denominator of the Landscape Surface Ratio for the Parcel).

3. **Deficiency Satisfied by Compensating Landscaping.** The minimum LSR required by either of Sections 10.5.30 or 10.5.31 may alternatively be satisfied by providing pervious landscaping or natural vegetated areas, devoid of wetlands (hereinafter, Compensating Landscaping), elsewhere than on the Parcel with the permission of the owner of the receiving parcel, in an area equal to the LSR Deficiency. Such Compensating Landscaping may have any zoning classification. The Planning Board may reject an offer of Compensating Landscaping and require compliance with this Section if it makes a finding that the proposed location of such Compensating Landscaping does not enhance the adjacent uses or is not substantially visible from adjacent roadways.

4. **Deficiency Satisfied by Providing Adequate Security.** The minimum LSR required by Sections 10.5.30 or 10.5.31 for the redevelopment of a Parcel in the RC district for office, research and development and other similar nonretail, non residential uses, may alternatively be satisfied if an Adequate Security is provided, calculated, as described in this Section, in an amount equal to the LSR Deficiency x \$15 for all redevelopment which expands the footprint of the existing building(s) which decreases the LSR; and the LSR Deficiency x \$2 for all redevelopment which retains or increases the existing LSR. Notwithstanding the foregoing, the Planning Board may require that a minimum LSR of 0.30 be attained on the redeveloped Parcel, provided that adequate parking is available on site to serve the proposed uses.

**10.5.33 LSR for Mixed Use Projects.** The minimum required LSR for mixed use developments (other than for a Regional Center Mixed-Use Development).shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

1. **Nonbonus Projects.** Minimum LSR = (Retail or service floor area percentage x 0.20) + (office, R & D, manufacturing or other non-retail, non-residential uses floor area percentage x 0.40) + (Residential floor area percentage x 0.30)

2. **Bonus Projects.** Minimum LSR = [(Retail or service floor area percentage x 0.20) + (Office, R & D, manufacturing or other non-retail, non-residential uses floor area percentage x 0.40) + (Residential floor area percentage x 0.30)] + (Proposed FAR - 0.32)/2

**10.5.34 Regional Center Mixed-Use Development.** The minimum required LSR for a parcel devoted to a Regional Center Mixed-Use Development (inclusive of the shopping mall and residential components) shall be no less than 25%, regardless of FAR. In calculating the LSR in

a RCP Overlay District, the numerator of the LSR shall include pervious and landscaped areas, including areas in a parking structure or on roofs of parking structures adjacent to ground level that are utilized for landscaped areas, such as planting structures containing plant material.

***DIMENSIONAL REGULATIONS***

**10.5.35 Height Limitations.** Height limitations in the HOD shall be as specified for the underlying zoning district(s), except as modified below. Except for structures on a lot abutting town owned land whose height shall be determined by the underlying zoning regulations, or for structures in a Regional Center Mixed Use Development or for structures in a MC District, the maximum height of structures located adjacent to residential zoning districts or residential uses shall be as follows:

1. For a Regional Center Mixed Use Development, the height limitation for shopping mall buildings shall be 80 feet measured from the adjacent average finished grade. The residential buildings in a Regional Center Mixed Use Development shall conform to the following limitations: Any building or portion thereof located less than 400 feet from a public way shall not exceed more than eighty (80) feet in height measured from the adjacent averaged finished grade. For buildings located more than 400 feet from a public way:

No more than 40% of the roof area of the building shall exceed:	85 feet measured from the center line of the adjacent public way and 105 feet measured from the averaged finished grade adjacent to the building
No more than 20% of the roof area of such a building shall exceed:	100 feet measured from the center line of the adjacent public way and 120 feet measured from the averaged finished grade adjacent to the building and provided the roof area within such height limit is set back at least 600 feet from a public way
Other than as may be authorized elsewhere, no portion of the building shall exceed:	120 feet measured from the center line of the adjacent public way and 140 feet measured from the averaged finished grade adjacent to the building

2. In an MC District (except in the case of a Regional Center Mixed Use Development), no building or portion thereof shall exceed more than eighty (80) feet in height.

3. The following height limitations shall also apply:

<b>Distance from Residential Use/District</b>	<b>Maximum Building Height</b>
Less than 50 feet	30 feet
50 feet to 200 feet	40 feet
200 feet to 300 feet	50 feet
300 feet to 400 feet	60 feet
More than 400 feet	75 feet

**10.5.36 Setbacks.** Minimum front setbacks shall be as specified for the underlying zoning district(s). Structures shall be set back a minimum of fifteen (15) feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified below.

1. Where Abutting Residential Districts and/or Uses. Except for the RCP District, the minimum setbacks for structures located adjacent to residential districts or existing residential uses shall be thirty (30) feet.

**10.5.37 Dimensional Regulations in MC District.** The Planning Board may also grant a special permit to permit a project authorized in either the MC Overlay District or the Regional Center Mixed-Use Overlay District, in lieu of the dimensional requirements of the underlying zoning district (including the RC District as part of the HOD District) to be subject to the following dimensional requirements:

Frontage	200 feet
Building Setback from a Public Way	50 feet (provided, however, the Planning Board may, by granting a special permit, reduce this setback to accommodate circulation or road improvements)
Parking Structure Setback from Public Ways	For at grade or higher levels, 50 feet from public ways; below grade levels do not require a setback
Maximum Height of Building or Structure	80 feet or 8 stories
Side and Rear Yard	20 feet but zero feet for buildings along their walls through which there is enclosed pedestrian access or solely to permit connections between parking structures and

***LANDSCAPING REQUIREMENTS***

**10.5.38 General.** The Planning Board shall adopt Rules and Regulations which implement the General Purpose and Intent, as well as the Objectives of this Section 10.5.38 to 101.5.49. Those Rules and Regulations shall provide a guide to good landscaping practices and shall set forth the desired standards which are intended to achieve specific performance objectives. However, the Planning Board may approve alternative plans where the applicant desires to deviate from the specific requirements of such Rules and Regulations, if the Board finds that such alternative is clearly more feasible and/or preferable, and that the proposed arrangement meets the general purpose, intent, and objectives of this Section.

1. The requirements and standards set forth in this Section are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development.

**10.5.39 Applicability.** The requirements of this Section shall apply to any new structure, and to any major alteration, to any change of use of an existing structure, or as may be required in connection with site plan review under the zoning regulations applicable in the underlying zoning district.

**10.5.40 Technical Requirements.** All site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect, unless waived in accordance with this Section.

**10.5.41 Landscape Plan.** In order to accomplish the General Purpose and Intent of this Section, specific objectives shall be accomplished by landscape plans, which shall include the following:

1. Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.
2. Buffer strips adjoining or facing residential zoning districts or uses shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.
3. Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.

4. All required landscaping shall be located entirely within the bounds of the parcel.
5. To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

**10.5.42 Landscaped Buffer Strips.** In the Highway Corridor and Regional Center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein or in the Rules and Regulations of the Planning Board, and shall be continuous except for required vehicular access points and pedestrian circulation facilities, including sidewalks. All required landscaping amenities shall be located within the bounds of the parcel. All signs to be constructed in any development subject to Site Plan Review under the Highway Overlay District Regulations shall be subject to the issuance of a special permit by the Planning Board. The following specific standards shall apply:

1. **Depth.** Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third (1/3) of the distance between the street right of way and any building line, but shall not be less than fifteen (15) feet in depth, and need not be greater than fifty (50) feet in depth. Sidewalks shall be excluded from calculation of the buffer depth, unless required by the development plan and not located in the public right of way. Landscaped buffer strips adjoining or facing residential districts or uses shall be a minimum of fifteen (15) feet in depth.
2. **Composition.** The buffer strip shall include a combination of deciduous or evergreen trees and lower level elements such as shrubs, hedges, grass, groundcover, fences, planted terms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.
3. **Arrangement.** Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements.
4. **Opaque Screens.** An opaque screen may be comprised of walls, fences, terms, shrubs or evergreen plantings, or any combination thereof. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens.
5. **Berms.** When berms are used to meet the requirements for a buffer strip they shall be

planted with living vegetation. The minimum top width of a berm shall be three (3) feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

6. Mulches. When used in required landscaping or buffers, mulches shall be limited to bark mulch and decorative stone, or equivalent materials. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

**10.5.43 Standards for Landscaping within Off-Street Parking Areas.** Parking areas shall be broken into sections. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands". Terminal islands shall be used either to separate parking spaces from driveways and other vehicular travel lanes, or to break up large numbers of parking spaces in a single row of spaces. Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes.

**10.5.44 Landscaping Adjacent to Buildings.** Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five (5) feet from the building.

**10.5.45 Design for Pedestrian Circulation.** The followings standards shall apply:

1. Pedestrian Access Through Buffers and Screens. Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.

2. Pedestrian Circulation in Parking Facilities. Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site. Pedestrian walkways shall be integrated, to the maximum extent possible, into the interior and/or perimeter landscaping of parking lots; and shall be constructed with a paved or similarly firm surface, separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

3. Pedestrian Circulation Adjacent to Buildings. A pedestrian walkway having a minimum width of six (6) feet shall be integrated into, and shall be in addition to, any required landscaped area adjacent to buildings.

**10.5.46 Pervious Landscaping.** Up to five (5) per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

**10.5.47 Maintenance.** The following standards shall apply:

1. The owners and developers of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
2. Appropriate water management procedures shall be followed to serve all landscaped areas.
3. The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two (2) growing seasons following completion of planting.

**10.5.48 Intersection Sight Distance Restrictions.** Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half (2-1/2) feet above curb level and a plane seven (7) feet above intersecting roadway levels within the zone required for site distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

**10.5.49 Occupancy Permits.** The following standards shall apply:

1. No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days has elapsed since the filing of a written request for such approval with the Building Commissioner and Planning Board.
2. In cases where, because of seasonal conditions or other unforeseen circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon

the approval of the Planning Board, provided that the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained. The amount of the escrow payment shall be set by the Planning Board and shall be equal to the full remaining estimated cost of materials and installation, with allowance for escalation and contingencies.

3. Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan.

### ***BONUS DENSITY PROVISIONS***

**10.5.50 Eligibility for Bonus Floor Space.** If a proposed improvement or facility in the Regional Center district complies with the standards set forth in Section 10.5.19, it shall be eligible for bonus floor area in accordance with the requirements set forth in this Section 10.5.50 to 10.5.56.

**10.5.51 Public Benefit Amenity.** To qualify for bonus floor space, a public benefit amenity must be specifically listed in the Schedule of Benefits below. A public benefit amenity that is a physical space (except for an affordable housing unit) shall be one to which the public is assured access on a regular basis, or an area that is dedicated to and accepted by the Town for public access purposes. Furthermore, to be considered a public benefit amenity, a specific improvement or facility must be determined to provide a public benefit and to be appropriate to the goals and character of the area. In addition, the following requirements must be met:

1. Parks: To be eligible as a public benefit amenity, a park must meet all of the following standards:

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet;
- be buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under Section 10.5.43.

For purposes of computing bonus credits, no more than one-third of the area of the park shall consist of wetlands, water bodies, steep slopes (over 25%), or other areas not usable for public recreation or leisure activities. On-site park area which meets the above standards and which is not wetlands may be used to satisfy the minimum Landscape surface ratio (LSR) requirement. On- or off-site park area may be used to qualify the project for bonus floor Area.

2. Pedestrian Circulation Improvement. Such improvements shall be directly accessible



to the pedestrian circulation system, and shall where possible connect with existing pedestrian circulation improvements on adjacent parcels and/or provide for connection to such improvements which can reasonably be expected to be developed on adjacent parcels. The following standards shall also be applicable:

- a. Sidewalk (Off-Site): A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.
- b. Pedestrian Bridge/Tunnel: Bridges or tunnels should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

3. Service Roads. Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this Section 10.5.50 to 10.5.57.

**10.5.52 Bonus Schedule I.** FAR Increases above 0.32 up to 0.40 (and in the MC District up to .60) based on Schedule I of Bonuses. An increase in allowable floor area for new construction resulting in a FAR for the entire development which does not exceed 0.40, as permitted in and subject to the requirements of this Section 10.5.19, shall be available in accordance with Schedule I of Bonuses set forth hereafter, if the Planning Board deems that the amenity offered by the applicant accomplishes the purpose, intent and objectives of the Highway Overlay Districts regulations. For development within an MC District for which a special permit is requested under this Section, an increase in allowable floor area shall be permitted if the requirements of Schedule I are met through fulfillment of one or more Public Benefit Amenities. The “bonus ratio” as used in Schedule I is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of “Square Foot” means that for each square foot of the amenity the project shall be eligible for three (3) additional square feet of floor area for permitted uses.

## SCHEDULE I OF BONUSES

<b>PUBLIC BENEFIT AMENITY</b>	<b>AMENITY UNIT</b>	<b>BONUS RATIO*</b>
<i>OPEN SPACE AMENITIES:</i>		
Park	Square foot	1:1
Excess pervious landscape	Square foot	1:0.5
Provision of open space**	Dollar (\$)	20:1
<i>PEDESTRIAN CIRCULATION IMPROVEMENTS</i>		
Off-site sidewalk	Square foot	1:1
Pathway/bikeway	Square foot	1:1
Pedestrian bridge	Square foot	1:1
<i>PUBLIC ASSEMBLY SPACE</i>	Square foot	1:5
<i>ROAD LINK ***</i>	Dollar (\$)	20:1
<i>TRAFFIC IMPROVEMENTS</i>		
Service road (24' - 30' paved width)	Square foot	1:3
Curb cut closure	Number closed	1:15,000
<i>TRANSIT AMENITIES</i>		
Transit related lane widening	Square foot	1:2
Traffic management project****	Dollar (4)	20:1
<i>OFF-SITE AFFORDABLE HOUSING</i>		
Provision by developer	Affordable unit	1:4,000
Town's Housing Corporation contribution	Dollar (\$)	20"1

\* Bonus Ratio = Amenity / Floor area

\*\* Open space shall be valued in accordance with 10.5.24.2.d or a contribution made to the Town's Conservation Open Space Fund.

\*\*\* Road link shall include the cost of the acquisition of the land (or the rights therein) whether incurred directly or reimbursed to other parties required for the roadway and the

design and construction of the elements thereof which form the intersections with the public or private way to which it connects.

\*\*\*\* Traffic Management Project shall include the provision of land for, and/or the design and construction of roadway improvements, as well as the support of public transportation, within the Town.

**10.5.53 Bonus Schedule II.** FAR Increases up to 0.55 based on Schedule II of Bonuses in the RC District. The Planning Board may, by special permit, grant an increase in the FAR up to a maximum FAR of 0.50, subject to the requirements of Section 10.5.19.2.a and b, only for parcels located in the RC District. In addition, an increase in the FAR up to a maximum FAR of 0.55 may be granted by the Planning Board for those certain residential uses defined in Section 10.5.12, subject to the requirements of Section 10.5.19.a and b, only for parcels located in the RC District.

1. Notwithstanding any provision in this by-law to the contrary, all parcels located in the RC District, shall be required, as a condition for increasing its FAR above 0.32 up to a maximum of 0.55; to provide Open Space as a public benefit amenity if it is in the ratios shown in the following SCHEDULE II OF BONUSES:

**SCHEDULE II OF BONUSES**

<b>PUBLIC BENEFIT AMENITY</b>	<b>AMENITY UNIT</b>	<b>BONUS RATIO*</b>
For FAR increases from 0.32 up to 0.55		
Open space having the value ** of	Dollar (\$)	20:1

\* Bonus Ratio = Amenity / Floor area

\*\* Open space shall be valued in accordance with 10.5.24.2.d or a contribution made to the Town’s Conservation Open Space Fund.

2. The “bonus ratio” as used in Schedule II of Bonuses is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, the bonus ratio of twenty to one (20:1) and an amenity unit of “Dollar (\$)” means that for each Twenty Dollars Open Space Value as determined in accordance with Section 10.5.25.2.d, the project shall be eligible for one (1) additional square foot of floor area for permitted uses.

**10.5.54 Bonus Schedule III.** FAR increases up to 1.00 based on Schedule III of Bonuses in the

RCP District solely for a Regional Center Mixed-Use Development that meets the Affordable Housing Standard. The Planning Board may, by Special Permit grant an increase in the FAR up to a maximum FAR of 1.00 subject to the requirements of the second paragraph of Section 10.5.22 only for such Regional Center Mixed-Use Development. The assessment provided for in Schedule III of Bonuses shall be reduced by a total percentage not exceeding the sum of the percentage of affordable units as defined herein plus the percentage of such qualifying units in excess of ten percent.

1. Notwithstanding any provision in this by-law to the contrary, all parcels located in the RCP District, which are proposed to have an FAR in excess of .32 and are to be developed as a Regional Center Mixed-Use Development, shall be required, as a condition for increasing its FAR for the housing component thereof as permitted under Section 10.5.20 to provide Open Space as a public benefit amenity if it is in the ratios shown in the following SCHEDULE III OF BONUSES as to the residential portion thereof (the shopping mall portion thereof shall be governed by the provisions of SCHEDULE I OF BONUSES):

**SCHEDULE III OF BONUSES**

<b>PUBLIC BENEFIT AMENITY</b>	<b>AMENITY UNIT</b>	<b>BONUS RATIO*</b>
For FAR increases from 0.32 up to 1.00		
Open space having the value ** of	Dollar (\$)	10:1

\* Bonus Ratio = Amenity / Floor area

\*\* Open space shall be valued in accordance with 10.5.24.2.d or a contribution made to the Town’s Conservation Open Space Fund.

2. The “bonus ratio” as used in Schedule III of Bonuses is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32 as provided in Section 10.5.22. For example, the bonus ratio of ten to one (10:1) and an amenity unit of “Dollar (\$)” means that for each Ten Dollars Open Space Value as determined in accordance with Section 10.5.25.2.d, the project shall be eligible for one (1) additional square foot of floor area for permitted uses.

**10.5.55 State Mandated Amenities.** The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed above in Sections 10.5.52 to 10.5.24 , only when all of the following conditions are met:

1. The provision of such amenity has been mandated as part of a State approval process;

2. The provision of the alternative improvement furthers the objectives of this Section 10.5.50 to 10.5.57; and
3. The improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

**10.5.56 Prospective Bonus Agreements.** A project in the RC district, which proposes to provide a public benefit amenity but not to utilize the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a special permit and site plan approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this Section 10.5.50 to 10.5.57. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of such Sections, nor shall such approval be considered to represent the granting of special permit and site plan approval for any future development.

**10.5.57 Continuing Obligation for Bonuses.** The following standards shall apply;

1. Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.
2. Where a bonus is granted, the applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance and upkeep of the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.
3. Where an applicant has made payments to governmental agencies (other than to the Town of Natick), and such payments are for the purpose of the acquisition, improvement, or use of land within the Town for public use, the Planning Board may provide a credit up to the amount of such payments against any of the requirements for providing Open Space in these Highway Overlay Districts Regulations, provided that the Planning Board makes a finding that the payments made or credits given provide similar benefits to the Town as would have resulted from additional Open Space being provided to the Town

## ***ADMINISTRATION***

**10.5.58 General.** The review procedures set in Sections 10.5.58 to 10.5.61 are intended to apply in the RC and HC districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedure and requirements are more restrictive than set forth in these Highway Overlay District Regulations. The Planning Board shall be the Special Permit Granting Authority for all special permits granted under these Highway Overlay District Regulations.

**10.5.59 Special Permit.** For all bonus projects, and projects requiring a special permit under the underlying zoning, the Planning Board shall be the Special Permit Granting Authority. The procedures for submission, review, and approval shall be as set forth under Section 11.6, as specifically modified by other provisions of these Highway Overlay District Regulations. A special permit is required for any proposed development which meets one or more of the following criteria:

1. The proposed development will exceed a FAR of 0.32;
2. The proposed development will not comply with an applicable requirement of this Section;
3. The proposed development will require a special permit under the underlying zoning as modified by provisions of the Highway Overlay District Regulations.
4. The proposed development will combine residentially zoned lot(s) with non-residentially zoned lot(s), regardless of the resultant FAR.

**10.5.60 Modifications and Waivers.** The Planning Board may modify and/or waive strict compliance with one or more of the standards, regulations and objectives set forth in these Highway Overlay District regulations, provided that it makes a specific finding, in writing, that a waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted. The Planning Board shall not grant a waiver of the FAR regulations set forth in this Section, except with respect to redevelopment projects which retain all or any part of prior-existing structures.

**10.5.61 Mutual Review.** It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district. Review and comment by the Planning Board of the Town of Framingham is specifically encouraged. In its review of a site plan, the Natick Planning Board shall consider any comments submitted by the Planning Board of the Town of Framingham.

1. If the size of the proposed structure exceeds 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Framingham and shall meet with the Planning Board of Framingham to describe the project, if requested by the Framingham Planning Board.

2. If the size of the proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Framingham. The Planning Board of Framingham shall be notified of the dates of all public hearings held by the Natick Planning Board regarding the project.

## **SECTION 11.0            ADMINISTRATION AND PROCEDURES**

### **11.1 ENFORCEMENT**

**11.1.1 Building Commissioner.** This By-law shall be enforced by the Building Commissioner. No action taken under the enforcement powers of this By-law shall be in contradiction to the provisions of G.L. Chapter 40A, as may be amended.

**11.1.2 Change in Lot.** No lot shall be changed in size, shape or ownership so that the area, minimum yard dimensions, maximum percent of building coverage, off-street parking or open-space requirements herein prescribed are no longer satisfied, except to the extent that any such change may result from the acquisition by the Town through voluntary conveyance or taking of a part of such lot for a public purpose.

### **11.2    REQUIRED PERMITS**

**11.2.1 Building Permit.** No building shall be constructed or reconstructed and no use of a building or land shall be begun or changed without a permit having been issued by the Building Commissioner. No such permit shall be issued until such construction, alteration, or use, as proposed, shall comply in all respects with the provisions of this By-law or with a decision rendered by the Board of Appeals.

1. Any application for such a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimension of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this By-law.

2. A record of all applications, plans, and permits shall be kept on file by the Building Commissioner.

3. Construction or operations under a building or special permit shall conform to any subsequent amendment of its By-law unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction is continued through to completion as continuously and expeditiously as is reasonable.

**11.2.2 Certificate of Occupancy.** No premises and no building or structure erected, altered, or in any way changed as to the construction or use, under a permit or otherwise, shall be occupied or used without a certificate of occupancy, signed by the Building Commissioner. No such certificate shall be issued until the following departments or Commissioners have approved of the construction in writing on a form devised by the Building Commissioner.

1. In the event the Building Commissioner refuses to grant approval of said construction or alteration, he shall state the reason for his refusal in writing to the applicant of such occupancy permit.
2. Such certificates shall not be issued to the premises, building or structure, unless its uses and accessory uses comply in all respects with this By-law.
3. A record of all applications and certificates shall be kept on file by the Building Commissioner.

### **11.3 PENALTY**

**11.3.1 General.** Any person violating any provisions of this By-law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals or the Planning Board, may be fined not more than two hundred dollars for each offense. Each day that such violation continues shall constitute a separate offense.

**11.3.2 Noncriminal Disposition.** Whoever violates any provision of this By-law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals or the Planning Board, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. Noncriminal disposition under this provision shall not preclude further judicial proceedings regarding continuing violation of this By-law beyond the date of said noncriminal disposition.

### **11.4 BOARD OF APPEALS**

**11.4.1 Establishment.** The Board of Appeals shall be composed of five members, appointed by the Board of Selectmen, for terms of such length and arranged so that the term of one member will expire each year. The members shall be citizens of the Town of Natick and shall serve from the first day of May. The term of each member shall be extended until his successor has been



appointed and qualified. Said Board shall act as Board of Appeals as set forth in G.L. c. 40A, s. 12 and this By-law. At least one member of said Board shall be an attorney. One member shall, if feasible, be a qualified architect, and one member shall, if feasible, be a civil engineer or master builder.

1. There shall also be three associate members appointed by the Board of Selectmen. In the case of absence, inability to act, or conflict of interest on the part of a member of said Board, his or her place shall be taken by an associate member designated by the chairman of said Board. Vacancies shall be filled for the unexpired terms in the same manner as in the case of the original appointments.
2. The Board shall elect annually a Chairman from its own members, and a Clerk.
3. Any member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing.

**11.4.2 Powers.** The Board of Appeals shall have and exercise all the powers granted to it by G.L. Chapters 40A, 40B, and 41 and by these By-laws. The Board's powers are as follows:

1. *Special Permits.* To hear and decide applications for special permits upon which the Board is empowered to act under these By-laws, in accordance with Section 11.6 .
2. *Variances.* To hear and decide petitions for variances in accordance with G.L. c. 40A, s. 10. The Board may vary the application of this By-law, without, however, making any change in its provisions or departing from its substantial intent or purpose, in specific cases wherein its strict enforcement would involve unnecessary hardship, and shall vary it so far as necessary in any case to avoid violation of constitutional guarantees, but shall not otherwise vary it. The Board may impose limitations both of time and use and may require bonds, and a continuation of the permitted use may be conditioned upon compliance with the regulations to be made and amended from time to time thereafter.
3. *Other Appeals.* To hear and decide other appeals, when taken by any person aggrieved by reason of his inability to obtain a building permit or enforcement action from the Building Commissioner under the provisions of G.L. c. 40A, or by or by any person including any officer or Board of the Town of Natick, if aggrieved by any order or decision of the Building Commissioner or other administrative official, in violation of any provision of Chapter 40A or these By-laws.
4. *Comprehensive Permits.* Comprehensive permits may be issued by the Board of Appeals as authorized by G.L. c. 40B, ss. 20-23.

**11.4.3 Rules and Regulations.** The Board of Appeals shall adopt rules and regulations not inconsistent with the provisions of these By-laws for conduct of its business and otherwise

carrying out the purposes of said Chapter 40A, and shall file a copy of such rules in the office of the Town Clerk.

**11.4.4 Records.** The records of the Board of Appeals shall be kept by said Board, shall be the property of the Town and shall be open at all reasonable time to the inspection of the public, but shall not be taken from the custody of the Board of Appeals. The Board of Appeals shall submit to the Selectmen at such time as they may require, an annual report of such business and such other reports as they may request.

**11.4.5 Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, special permits, administrative appeals, and applications for comprehensive permits.

## **11.5 PLANNING BOARD**

**11.5.1 Establishment.** There shall be a Planning Board consisting of the five (5) members, established under the provisions of G. L. Chapter 41, Section 81A.

1. *Associate Member.* There shall be one associate member of the Planning Board who shall be elected to serve a term of five years. The chairman of the Planning Board may require such associate member to be in attendance at any hearing or site plan approval and may designate such associate member to sit on the Board for the purpose of acting on an application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

**11.5.2 Powers.** The Planning Board shall have the following powers:

1. *Special Permits.* To hear and decide applications for special permits upon which the Board is empowered to act under these By-laws, in accordance with Section 11.6.

2. *Site Plan Approval.* To review and decide applications for site plan approval, in accordance with Section 11.7 .

**11.5.3 Rules and Regulations.** The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning By-law for conduct of its business and otherwise carrying out the purposes of said Chapter 40A, and shall file a copy of such rules in the office of the Town Clerk.

**11.5.4 Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for petitions for special permits and site plan approval.

## **11.6 SPECIAL PERMITS**

**11.6.1 Special Permit Granting Authority.** As designated in this By-law, the Board of Appeals or the Planning Board shall act as the Special Permit Granting Authority (SPGA).

1. The Planning board shall act as the SPGA in the following Districts:

Highway Mixed Use - I  
Highway Mixed Use - II  
Highway Mixed Use - III  
Highway Planned Use  
Highway Overlay Districts  
Town House Cluster Development - RSA  
Single Family Town House Cluster Development - RSA  
Single Family Town House Cluster Development - RSA  
Hospital (H)  
Planned Cluster Development - PCD  
Housing Overlay Option Plan B I (HOOP B I)  
Housing Overlay Option Plan B II (HOOP B II)  
Administrative and Professional (AP)

2. In the C-II, IN-I, and IN-II Districts, the Board of Appeals shall act as the SPGA for all such review procedures involving less than 150,000 square feet of new or rehab construction floor space, or the development of a parcel of land having such area limitation.

3. In the C-II, IN-I, and IN-II Districts, the Planning Board shall act as the SPGA for all such review procedures involving more than 150,000 square feet of new or rehab construction floor space, or the development of a parcel of land having such area limitation.

**11.6.2 Decision Criteria.** The following criteria shall be the basis for decisions on special permits, except as may be more specifically provided elsewhere in this By-law. Special permits shall be granted by the Special Permit Granting Authority only upon its written determination that the proposed use will not have adverse effects which outweigh its beneficial effects for either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following criteria:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;

4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

**11.6.3 Procedures.** Each application for a special permit, together with copies of supporting plans and other materials, shall be filed by the petitioner with the Town Clerk. Fifteen copies of said application, including one having the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the Special Permit Granting Authority, together with five (5) copies of the supporting plans and other materials.

**11.6.4 Referral to Other Officials and Agencies.** The Special Permit Granting Authority shall refer notice of all applications immediately upon receipt to the Town Administrator, Building Commissioner, Planning Board (when it is not the SPGA), Town Engineer, DPW, Board of Health, Conservation Commission, Police Department, Fire Department, and to any other involved Town official or agency.

1. The Special Permit Granting Authority shall also transmit copies of the submitted plans and support documentation to all agencies having requested such documentation for either that specific project or for such projects generally, and to any other authorities whose review is judged appropriate by the Building Commissioner, for technical review and comment. Failure of any official or agency to make recommendation within thirty-five days of receipt of the application and support documentation shall be deemed lack of opposition thereto.

**11.6.5 Decision.** A special permit, if granted, shall be subject to any general or specific rules prescribed herein, and it may be made subject to appropriate conditions, safeguards, and limitations on time or use.

**11.6.6 Lapse.** A special permit granted under this Section shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

## **11.7 SITE PLAN REVIEW**

**11.7.1 Purpose.** The purpose of this Section is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town by providing a comprehensive review of plans for those uses and structures which have a significant impact upon the character of the Town and upon traffic, utilities and property values therein. Factors to be considered are the placement of

buildings and utilities, surface and groundwater drainage, wetlands, water supply, parking, loading, landscaping, lighting, dust and noise control, access to the development, acceptable sanitary conditions and the proper provision for open areas. It is intended to ensure that the design and layout of those developments subject to this Section will constitute suitable development and will not result in a detriment to the neighborhood or to the environment. It is also intended hereby to assist those wishing to build projects within the Town by providing them with the necessary information about all of the Town's requirements affecting their project prior to the start of any construction or the issuance of the permits.

### **11.7.2 Applicability.**

1. Site plan review shall be required for all uses otherwise exempted by G.L. c. 40A, s. 3; provided, however, the such review shall be limited to the imposition of reasonable conditions concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.
2. Where site plan review or a special permit is not otherwise required in the Districts set forth in Section 11.6.1.1, the construction of roads, driveways and parking areas shall be subject to site plan review to be administered by the Planning Board.

**11.7.3 Exemption.** Notwithstanding the foregoing, site plan review shall not be required with respect to alteration or rehab construction unless:

- a. There is a change from one use designation to another use designation as described in the Use Regulation Schedule, or
- b. The proposed alteration of a structure in existence prior to the effective date of this By-law will increase the floor area of a building on the premises by more than five (5%) percent.

**11.7.4 General Requirements.** No person shall undertake a use, construction or alteration of any structure which is subject to the provisions of this Section, unless there has first been submitted to the review authority for its approval, a final site plan for such proposed development. Once approved by the review authority, such Plan shall not be changed in any material respect without being amended or modified in the same manner as provided for obtaining initial approval. No building permit or certificate of occupancy shall be issued by the Building Commissioner for any use subject to this Section and no construction or site preparation shall be started, until a decision of the review authority approving the final site plan has been filed with the Town Clerk.

1. There shall only be one (1) final site plan in effect for a tract at any point in time. The review authority shall not approve multiple final site plans for all or any portion of a tract

subject to this Section 11.7.

2. Although final site plans may be approved for all or part of a project on a tract to accommodate the phasing thereof, any subsequent changes in such previously approved Final Site Plan may be accomplished by amending or modifying the prior approval, including by substituting or replacing previously approved plans or portions thereof.

3. Notwithstanding any other provision in these By-laws, once a building permit is issued for development under plans approved by the review authority under this Section for all or any part of a tract, all further development of the remainder of such tract shall be subject to this Section, regardless of the zoning classification applicable to such tract at the time of site plan approval, prior thereto, or effective thereafter.

**11.7.5 Content of Site Plan and Other Submittals.** In addition to any other requirements which the review authority may reasonably impose, a final site plan shall show the following information as to existing and proposed conditions:

1. Buildings and structures;
2. Contour elevations;
3. Parking spaces, driveway openings, driveways, and service areas;
4. Facilities for sewage, refuse and other waste disposal and for surface water drainage;
5. Wetlands, surface water, areas subject to the 100 year flood, maximum groundwater elevation, location of aquifers, private or public wells and drinking water supplies in relation to the site;
6. Landscape features such as fences, walls, planting areas, and walks;
7. Lighting;
8. Relation of the above features to adjacent ways and properties;
9. All contiguous land owned by the applicant or by the Owner(s) of the property which is the subject of the application;
10. Potential pollution of surface or groundwater, soil erosion, increased runoff, changes in groundwater level, and flooding as it affects the site and the project; and the plans and such other submittal shall indicate the measures proposed to deal with and mitigate such environmental impacts;

11. A traffic study which shall project traffic flow patterns into and upon the site for both vehicles and pedestrians, and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours, as well as the existing patterns and existing ways for passage of traffic and pedestrians;

12. Except for building permits, any other permits or approvals required from Town Agencies are to be included as part of this submittal or an explanation for their absence satisfactory to the review authority shall be submitted. Failure to provide such permits or approvals shall not be due to failure by the applicant to apply to the appropriate agency for the grant thereof.

#### **11.7.6 Procedures.**

1. Submittal. Although preliminary plans may be discussed informally with the review authority, only one plan submission is required. An application for final site plan approval shall be made by filing an application with the review authority. The applicant shall file a copy of such application with the Town Clerk and with the Community Development Director for their information and records.

2. Notice and Hearing. A public hearing shall be held by the review authority in the manner set forth in G. L. c 40A, s. 11.

3. Filing; Contents. The review authority shall file its decision with the Town Clerk, and shall send notice of such action by registered or certified mail, postage prepaid to the applicant. In the event of disapproval, the review authority shall state in detail wherein the plan does not conform with legal requirements, or the requirements of this Section.

4. Reconsideration of applications and withdrawal of application shall be in accordance with G. L., c 40A, Section 16.

**11.7.7 Standards.** In considering a final site plan for approval, the review authority shall ensure that the following criteria are met:

1. Compliance with all provisions of this By-law.

2. Protection of adjoining premises against seriously detrimental or offensive uses on the site (e.g. by integrating development design onto existing landscape to enhance aesthetic assets, screening of objectionable features from neighbors, providing adequate surface water drainage, buffers against light, sound, dust, noise and vibration).

3. Convenience and safety of vehicular and pedestrian movement on the site and in relation to streets and properties in the surrounding area, and for the location of driveway

openings in relation to street traffic, so as to prevent traffic congestion and dangerous access within the site and onto existing ways.

4. Adequacy of the methods of disposal of wastes.
5. Adequacy of measures for the prevention of pollution of surface and groundwater, soil erosion, increased runoff, changes in groundwater level and runoff, and conservation and recycling of water.
6. Protection of significant features on the site and in adjacent areas insofar as consistent with the purposes of this By-law.

**11.7.8 Approval.** Site Plan approval shall be granted upon determination by the Board that the plan meets the objectives set forth above. The Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage, consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations.

1. Where maximums are stated in this By-law, the review authority may deny granting the maximum (e.g. height, building coverage, etc.) if in its opinion the proposed plan does not merit granting the maximum, in view of the criteria and standards set hereby. Similarly, where minimums are stated in this By-law, the SPGA acting hereunder can make increased requirements. (e.g. parking, screening, landscaping, etc. ) if in its opinion in applying the criteria and standards set hereby, the proposed plan warrants exceeding such minimums.

2. The review authority may in any particular case, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this Section, waive strict compliance with its rules and regulations. The review authority shall not require site plan review where the nature of the proposed construction, alteration or use is such as to have a minimal effect on any of the standards or criteria provided for hereafter in this Section, when measured against existing conditions of the site.

**11.7.9 Rules and Regulations.** The review authority shall adopt such rules and regulations for carrying out its duties under this Section.

**11.7.10 Fees.** The review authority may provide for a schedule of examination fees in connection with the Site Plan Review Procedure herein provided.

**11.7.11 Lapse.** Construction on a site must be started or substantial activity commenced on the site within one year from the date of final site plan approval. Site preparation alone shall not be



deemed to constitute start of construction. Approval of a final site plan may be extended for one additional year at the discretion of the review authority after a receipt of a written request from the owner or his designated agent, and for good cause shown. If one year has elapsed from the date of approval and no extension has been granted, or if so granted then at the end of such one year extension, no construction has been started or substantial activity commenced, the final site plan approval shall be come null and void without requiring any further action by the review authority.

**11.7.12 Appeal.** Any person aggrieved by a decision of the review authority may appeal to a court of competent jurisdiction as set forth in G.L. c. 40A, s. 17.

**11.7.13 Certificate of Occupancy; Designer's Certification.** No certificate of occupancy shall be issued for any structure or parcel subject to this Section unless it, and all of its related facilities, substantially conform to the approved final site plan. The applicant shall submit to the Building Commissioner with a copy to the review authority, a written certification from a professional engineer, architect, or landscape architect, preferably the one who prepared the final site plan, that the work has been completed substantially in accord with the approved final site plan. The Building Commissioner shall deny the issuance of a certificate of occupancy if a professional engineer's, architect's or landscape architect's certification is not so provided. A Certificate of Occupancy shall constitute certification that such construction was performed and completed in compliance with an approved final site plan, and such certification shall be conclusive for all purposes, unless it was issued in disregard of the requirement for certification by a professional engineer, architect or landscape architect as provided for herein. Prior to the issuance of a certificate of occupancy, documents for all easements to be granted to the Town shall be recorded.

## **11.8 DESIGN REVIEW BOARD**

**11.8.1 Purpose.** It is the intent of this Section to provide detailed review of exterior alterations made to structures having substantial impact on the Natick Downtown Mixed Use District, to prevent blight, to enhance the natural and aesthetic qualities of the Downtown, to conserve the value of land and buildings, and to protect and preserve the historic and cultural heritage of the Downtown and its surrounding neighborhoods.

**11.8.2 Design Review Board Composition.** The Design Review Board shall be appointed by the Planning Board and the Natick Board of Selectmen to consist of five (5) Town residents as follows:

1. A member of the Planning Board or designee,

2. A person appointed by the Planning Board qualified by training and experience in Landscape design;
3. A person appointed by the Planning Board qualified by training and experience in Architecture design;
4. A person appointed by the Board of Selectmen who serves on the Historic Commission; and
5. A person appointed by the Board of Selectmen who serves on a Downtown Business organization.

**11.8.3 Term.** Members shall serve for three (3) years or until their successors are appointed, except that the members listed under 11.8.2 and 11.8.4 above shall serve for two (2) years in their initial term, and the member listed under 11.8.3 above shall serve for one (1) year in his or her initial term.

**11.8.4 Authority and Powers.** In the Downtown Mixed Use District, the Design Review Board shall review requests for sign permits, new construction, or any other exterior alterations or modifications to a building, with the exception of single- and two-family dwellings, that require a special permit or variance. It shall evaluate such requests based on the Design Criteria of this Section. All requests must be submitted to the Design Review Board prior to application to the Special Permit Granting Authority or Permit Granting Authority. A written determination must be made within thirty (30) days after the filing of the application or such further time as the applicant may in writing allow. Its findings, along with any restrictions and/or conditions, shall be submitted in writing to the Special Permit Granting Authority or Permit Granting Authority. These comments may also be incorporated in the recommendations of the Planning Board to the Special Permit Granting Authority or Permit Granting Authority. All decisions and reports of the Design Review Board shall be advisory only.

**11.8.5 Design Criteria.** The Design Review Board shall review requests for Special Permits under this Section based on the following standards:

1. Preservation and enhancement of landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
2. Relation of buildings to environment. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed building. Proposed buildings shall be related to their surroundings with respect to:
  - a. height;

- b. street façade;
- c. rhythm of solids and voids;
- d. spacing of buildings or signs;
- e. materials, textures, and color;
- f. roof slopes; and
- g. scale.

3. Open space. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

4. Signs and advertising devices. The size, location, design, color, texture, lighting, and materials of signs and advertising devices shall be in harmony with significant architectural features of existing and proposed buildings and structures and with surrounding properties.

5. Heritage. Removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

The Design Review Board may, in its discretion, determine and apply additional Design Criteria that further the purposes of this Section.

**11.8.6 Handbook.** The Design Review Board shall publish and make available to the public on request a booklet of guidelines based on the specific Design Criteria cited in Part D to effectuate the purposes of this Section.

## **11.9 REPETITIVE PETITIONS**

No proposed change in this By-law which has been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two years after the date of such unfavorable action unless adoption of the proposed change is recommended in the final report of the Planning Board.

## **SECTION 12.0 DEFINITIONS**

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this by-law.

**Accessory Building or Structure:** A building the use of which is subordinate and customarily incidental to that of the main building, and which is located on the same lot.

**Accessory Use:** A use of a building or land customarily incidental and subordinate to the principal permitted use of the premises and not detrimental to the neighborhood, provided the outward character of the district is not changed, but in no event to include a business, commercial, industrial, transportation or institutional use as being incidental to a residential use.

**Accessory Wireless Communications Facility (AWCF):** A WCF located on the same lot and customary and incidental to a use permitted as of right, by Special Permit, by variance, or as a pre-existing non-conforming use, including without limitation, any home mounted wireless transmission/reception box and any fixtures and equipment customary and incidental to a private business exchange also known as a "PBX Wireless Campus."

**Adult day care facility:** A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

**Adult Use:** An establishment: (1) having at least fifteen (15%) percent of its business inventory, stock in trade or other materials for sale, rental or display at any point in time, or deriving at least fifteen (15%) percent of its revenues from, or presenting for at least fifteen (15%) percent of the time the establishment is open for business, materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in G.L. Chapter 272, Section 31, such as but not limited to an adult bookstore, adult motion picture theater, adult paraphernalia store or adult video store; and/or (2) which displays live nudity, i.e. an establishment which provides live entertainment for its patrons, which includes the display of nudity either by workers in the course of transacting business or delivering services, or wherein performers appear in a state of nudity as that term is defined in G.L. Chapter 272, Section 31.

**Adult Bookstore:** An establishment having at least fifteen (15%) percent of its business inventory, stock in trade, books, magazines, or other materials for sale, rental or display at any point in time; which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

**Adult Motion Picture Theater:** An enclosed building used for presenting motion pictures, slides, photo displays, videos or other material for viewing, distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

**Adult Paraphernalia Store:** An establishment having at least fifteen (15%) percent of its business inventory or stock in trade as devices, objects, tools or toys or other materials for sale, rental or display at any point in time; which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

**Adult Video Store:** An establishment having at least fifteen (15%) percent of its business inventory or stock in trade as videos, movies, or other film materials for sale, rental or display at any point in time; which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

**Establishments which display live nudity:** Any establishment which provides live entertainment for its patrons, which includes the display of nudity either by workers in the course of transacting business or delivering services, or wherein performers appear in a state of nudity, as that term is defined in G.L. Chapter 272, Section 31.

**Affordable Housing:** Housing which is restricted for sale, lease or rental to households within low or moderate income ranges as defined hereinafter, and at specific prices in accordance with the provisions specified hereinafter. Housing which meets the criteria for recognition as affordable units under a Local Initiative Program or other program administered or authorized by the Department of Housing and Community Development.

**Affordable Housing Standard:** One or more buildings in which there are units designated as Affordable Housing and where the affordable units are located on the same parcel as a Regional Center Mixed-Use Development, they shall equal sixteen percent (16%) of the total number of units on the parcel or, if the applicant elects and the Planning Board grants a special permit therefor (a) where the number of the affordable units are not located on the same parcel as a Regional Center Mixed-Use Development, they shall be not less than twenty-two percent (22%) of the total number of units on the parcel devoted to a Regional Center Mixed-Use Development or (b) such combination of affordable units located in part on the same parcel as the Regional Center Mixed-Use Development and in part on another parcel as the Planning Board may authorize under the terms of such special permit. For purposes of the foregoing calculations, if such percentage yields a partial unit, then the number of units required to achieve the affordable housing standard shall be rounded up to next whole number.

**Agricultural use, exempt:** Agricultural use of property exempted by G.L. c. 40A, s. 3.

**Agricultural use, nonexempt:** Agricultural use of property not exempted by G.L. c. 40A, s. 3.

**Alteration:** Change in or addition to a building which reduces the means of exit or fire resistance or changes its structural support, use or occupancy.

**Amusement Device:** A device by which individuals are entertained; or a structure open to the public, by which individuals are conveyed or moved for diversion.

**Apartment:** A part of a building set apart which is used or adapted to be used exclusively for the residence of one family, single dwelling unit.

**Apartment House:** Any building designated for, or occupied as a permanent (as distinguished from hotels, motels and boarding houses) residence for three or more families in separate dwelling units with means of egress and other essential facilities.

**Apartment House-Garden Type:** An apartment house of one or two stories above grade, with not more than eight (8) apartments all served by two (2) separated and direct means of egress from the building, at least one of which shall be a primary entrance.

**Apartment House- Central Type:** An apartment house of more than one level with more than eight (8) apartments, each such apartment house providing at least one (1)

major stairway and not less than two (2) separate and direct means of egress from the building.

**Appurtenant Structure:** A device or structure attached to the exterior or erected on the roof of a building designed to support service equipment or used in connection therewith, or other similar uses.

**Aquifer Protection District:** The following definitions shall apply for the purposes of Section 9.2:

**Aquifer:** Areas of permeable deposits of rock or sand gravel containing significant amounts of potentially recoverable potable water with saturated thicknesses greater than 50 feet.

**Groundwater:** Subsurface water present in delineated aquifers and recharge areas.

**Hazardous Waste:** Materials as defined pursuant to G.L. Chapter 21E, Section 2.

**Impervious Material:** Material that substantially restricts the penetration of surface water into the soil.

**Leachable Wastes:** Waste materials including without limitation solids, sewage sludge and agricultural residue which may release water-borne contaminants to the surrounding environment.

**Mining of Land:** The removal or relocation of geologic materials for the purpose of extracting topsoil, sand and gravel, metallic ores, or bedrock materials.

**Radioactive Materials:** Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection Against Radiation).

**Recharge Areas:** Areas of permeable deposits with saturated thicknesses less than 50 feet, which are hydraulically connected to and located upgradient of aquifer areas.

**Process Liquids:** Liquids used in cooling or in the manufacturing process which contact raw materials, product, wastes or machinery and which because of that contact contain hazardous wastes or do not meet state drinking water standards.

**Solid Waste:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including, without limitation, rubbish, garbage, scrap material and landscape refuse .

**Toxic or Hazardous Substances:** As defined by G.L. c. 111F, Section 1.

**Area, Building:** The maximum horizontally projected areas of the building at or above grade, exclusive of court and vent shafts.

**Assisted Housing:** Housing as defined under Subsidized Housing.

**Assisted Living Residence:** A residential facility providing residents with personal care services (assistance with one or more activities of daily living and self-administered medication management, either through physical support or supervision), assistance with activities of daily living (tasks related to bathing, dressing, grooming, ambulation, eating, toileting, and similar tasks), and such services as may be necessary to meet the needs of seniors and the elderly, and as may be specified pursuant to the Commonwealth of Massachusetts Assisted Living Residence regulations, 651 CMR 12.00.

**Attic:** The space between the ceiling beams of the top habitable story and the roof rafters (see HABITABLE ATTIC).

**Basement:** A portion of a building (not a story) partially underground, but having not less than half its clear height measured from floor to finished ceiling above the average grade of the adjoining ground (see CELLAR).

**Boarding House/Tourist Home/Lodging House:** A building containing from two (2) to six (6) sleeping rooms and arranged or used for lodging, with or without meals, for compensation, by more than four (4) and not more than twenty (20) individuals.

**Body Art:** The practice of physical body adornment by body piercing, tattooing, cosmetic tattooing, branding and/or scarification. This definition shall not be deemed to include practices that are considered medical procedures by the Massachusetts Board of Registration in Medicine and shall not include piercing of the earlobe.

**Body Art Establishment:** An establishment where the practices of Body Art are conducted.

**Bonus:** The construction of floor area in excess of that permitted as of right by the applicable FAR maximum.

**Bonus Project:** A project for which the applicant is seeking any one (1) or more of the bonuses provided for in this By-law.

**Building:** A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof or cover, to form a structure for the shelter, housing or enclosure of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent



in nature. The word “building” shall be construed where the context requires as though followed by the words “or part or parts thereof.” (see also STRUCTURE).

**Building Line:** The line established by this By-law beyond which a building shall not extend, except as specifically provided by law.

**Building Lot:** That area of land described and recorded as such in the Registry of Deeds on a site plan in an application for a building permit or an application to a Permit or Special Permit Granting Authority for a variance or a permit, respectively; or otherwise defined as the area on which a structure is to be constructed or a use is to be conducted. A building lot shall not include any part of a street, nor shall a lot be considered to be a building lot if its use is otherwise not allowed under this By-law.

**Cellar:** The portion of the building partially underground, having half or more than half of its clear height below the grade plane or the mean finished grade of the ground adjoining the external walls of the building.

**Certificate Of Use And Occupancy:** The Certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts, together with any special stipulations or conditions of the building permit.

**Change In Use:** An alteration by change in part or all of an existing structure from one use category or purpose to another use category or purpose, as those uses are listed in the Schedule of Uses.

**Child Care Center:** A day care center or school age child care program, as those terms are defined in G.L. c. 15D, s. 1A.

**Club or lodge, private:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**Cluster:** The area circumscribed by a line connecting exterior points of outer building walls of the dwelling buildings contained within a single group of buildings.

**Commercial Parking Lot:** A lot used for the storage or parking of passenger vehicles or buses with no provision for operations incidental to the servicing of such vehicles.

**Court:** An uncovered, unoccupied space enclosed by the walls of a building or buildings on all sides, or one so enclosed on three sides, and whose depth opposite any clear opening into a yard or street exceeds one-half the width of such opening.

**Covered Open-air Front Porch:** A first-floor, ground level single-story covered structure attached to the front exterior of a principal residential structure, no portion of which may extend beyond the side walls of the front of such principal residential structure, which has direct access to street level, and which the Building Commissioner determines, following review of adequate plans, complies with the following additional requirements:

**Curb-Cut Closure:** the closing of a Curb-Cut onto a double lane public way.

**Divider Island:** A landscaped element running in a direction parallel to a vehicular travel lane, used to separate parallel rows of parking spaces.

**Dog Kennel:** One pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old, or over, owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

**Dormitory:** A space in a dwelling unit where group sleeping accommodations are provided, with or without meals, for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in school or college dormitories, fraternity houses, military barracks and ski lodges.

**Dwelling:** Any building used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, whether mounted or not.

**Dwelling, One Family Or Single Family:** A building containing one (1) dwelling unit with not more than four (4) lodgers or boarders (not including a mobile home)

**Dwelling, Two Family:** A building containing two (2) dwelling units with not more than four (4) lodgers or boarders per family, but not more than twenty (20) individuals.

**Dwelling, Multi-Family:** A residential building (such as apartment houses and town houses) designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling Unit:** One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

**Enclosed Pedestrian Access:** A physical connection between buildings on the same or adjoining lots which provides pedestrian access between such buildings, which is fully enclosed from the elements and along substantial portions of which there is occupiable space devoted to retail, restaurant or personal service establishments.

**Essential services:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Excess Pervious Landscaping:** Pervious landscaping exclusive of wetlands, as defined herein, in excess of the amount required by the applicable Landscape Surface Ratio (LSR).

**Family:** Any number of persons living as a single housekeeping unit.

**Family Day Care Home, Large or Small:** A facility as defined in G.L. c. 15D, s. 1A.

**Family Suite:** An accessory dwelling unit, in a primary single family dwelling, for occupancy by a resident who is related by blood, marriage or adoption to the owner of the primary dwelling. )

**First Floor:** The lowest floor above the level of the mean finished grade of the ground adjoining all external walls of a building and above the mean established grade of that part of any street on which the front of the building abuts.

**Floor Area Ratio (FAR):** The ratio between the gross floor area of all buildings on a parcel, including accessory buildings, and the total area of the parcel.

**Fur Animals:** Animals usually kept and raised for the use and sale of their skins and fur.

**Galley Kitchen:** A Kitchen so configured as to accommodate the storage and preparation of food and meals, but not to accommodate the seating of more than two persons. Such kitchen shall have an area of not less than 50 square feet.

**Garage:** Any building or structure or part thereof wherein a motor vehicle containing a volatile inflammable medium is kept or repaired.

**Garage, Community:** A group of attached private garages.

**Garage, Private:** Covered space for the housing of four (4) or less motor vehicles;

including no more than one (1) commercial vehicle which does not exceed two-and-one-half (2-1/2) tons gross weight; or two (2) or three (3) passenger vehicles plus no more than one (1) such commercial vehicle; with no provision for repairing or servicing such vehicles for profit, and not for rental or for commercial storage.

**Garage, Public:** A building or structure for the storage or parking of more than four (4) passenger motor vehicles, or more than one (1) commercial motor vehicle, and in which provisions may be made for the dispensing of gasoline, oil or similar products for the servicing of such vehicles.

**Golf:** The game as customarily played under natural light. The term “golf” as applied herein or in conjunction with this By-law shall not be construed to encompass as a direct or accessory use any artificial lighting installed upon, near, or over the regular golf playing area or course of such type or intensity as to illuminate said playing area or course for the purpose of making play possible when natural lighting conditions would otherwise prevent it.

**Grade:** A reference plane representing the average or finished ground level adjoining the building at all exterior walls.

**Gross Floor Area:** The sum of the areas of all stories of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, including any floor area below grade when usable for residential, office, business, storage, industrial, or other purposes, but excluding any area used exclusively for heating, air conditioning or other mechanical equipment which services the building, and excluding floor area intended or designed for off-street parking.

**Gross Land Area:** All of the land within the perimeter of a parcel which is proposed for development or use.

**Habitable Attic:** An attic which has a stairway as a means of access and egress and in which the ceiling area at a height of seven and one-third (7-1/3) feet above the attic floor is not more than one-third (1/3) the area of the floor next below.

**Habitable Room:** A room or enclosed floor space arranged for living, eating, and sleeping purposes (not including bathrooms, water closet compartments, laundries, pantries, foyers, hallways and other accessory floor spaces).

**Health Care Facility:** a structure or portion thereof in which persons are housed, reside, or visit, on a short-term or long-term basis, and have available therein medical or nursing professional services, and/or facilities or services to assist in daily living, sustenance, care, or rehabilitation; such as, but not limited to: rehabilitative care facility, convalescent or nursing home, rest home, skilled nursing facility, diagnostic and health care professional offices, and hospital.

**Height, Building:** The vertical distance from the grade to the highest point of the roof. When a building faces more than one street the height shall be measured from the average of the grade at the center line of each street or, if it does not abut on a street, from above the mean finished grade of the ground adjoining the external walls thereof. An external wall extending above the roof shall be considered as part of the height of the building. The limitation on height of buildings and structures shall not apply in any district to roof tanks and their supports, ventilating, air conditioning and similar building service equipment, chimneys, railings, skylights and other similar features of buildings which are in no way designed or used for living purposes.

**Height, Court:** The vertical distance from the lowest level of the court to the mean height of the top of the enclosing walls.

**Height, Story:** The vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists, or, where there is no ceiling, to the top of the roof rafters.

**Home Occupation/Customary Home Occupation:** An occupation such as professional offices, studios, laboratories, and workshops which may specifically include the following occupations (not by way of limitation): seamstress, tailor, milliner, hair care facility, realtor, legal services, dental or medical care facility, art, craft or music instruction.

**Hotel :** any establishment used for the feeding and lodging of guests, whose occupancy is not to exceed ninety (90) consecutive days, which is licensed or required to be licensed as a common victualler and innholder under the provisions of G.L. c. 140, s. 6 and has upon its premises the necessary implements and facilities for cooking, preparing and serving food for strangers and travelers, and also has the rooms, beds and bedding required by law.

**Housing Trust Fund Contribution:** A contribution to a trust fund, maintained by any public agency, or private non-profit agency, established for the purpose of financing the purchase, rehabilitation and/or construction of housing for low and moderate income persons or families.

**Interior Lot Line:** Any lot line other than one adjoining a street or public space.

**Landscape Surface Ratio (LSR):** The ratio between the area of a parcel devoted to pervious landscaping or natural vegetated areas and the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred (100) feet of an upland area that adjoins a developed area of the project, or wetland areas to be improved to serve as a public amenity.

**Lodging House:** See BOARDING HOUSE.

**Lot:** A single area of land in one ownership, defined by metes, bounds or boundary lines in a recorded deed or a recorded plan.

**Lot, Corner:** A lot abutting on two or more streets at their intersection, with a front yard on each such street.

**Lot depth:** The mean horizontal distance between front and rear lot lines.

**Lot Frontage:** The linear extent of the front of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line of the same lot.

**Lot, Interior:** A lot which faces on one street or with opposite sides on two (2) streets.

**Lot Line:** The established division line between lots or between a lot and a street.

**Low Income:** A total household or family income less than or equal to eighty (80%) percent of the median income for the Greater Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437, et. seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.

**Major Alteration:** An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area equal to or greater than 15% over the gross floor area in existence on January 1, 1992; or which is equal to or more than eight thousand (8,000) square feet; or if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, is more than five thousand (5,000) square feet; whichever is the lesser amount.

**Means Of Egress:** A continuous and unobstructed path of travel from any point in a building or structure to a public space and consists of three (3) separate and distinct parts: (a) the exitway access, (b) the exitway and (c) the exitway discharge; a means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

**Medical clinic:** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**Minor Alteration:** An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area of less than 15% over the gross floor area or which is less than eight thousand (8,000) square feet; or if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, is less than five thousand (5,000) square feet; whichever is the lesser amount.

**Mobile Home:** Any vehicle or object whether resting on wheels, jacks or other foundation and having no motive power of its own, but which is drawn by, or used in connection with a motor vehicle, and which is so designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels; and containing complete electrical, plumbing and sanitary facilities; and designed to be installed on a temporary or permanent foundation for permanent living quarters. This shall not include the type of vehicle known as a travel trailer or travel coach.

**Moderate Income:** Shall mean having a total household or family income less than or equal to one hundred twenty (120%) percent, but more than eighty (80%) percent, of the median income for the Greater Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. 1437 et.seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.

**Motel:** A building intended and designed solely for transient or overnight occupancy, divided into separate units within the same building and with or without public dining-room facilities.

**Motor Vehicle Light Service:** An establishment which provides for the servicing of motor vehicles or implements and conducts operations incidental thereto, limited to: a) retail sale of gasoline, oil, tires, batteries and new accessories; b) the changing and repairing of tires (but not including recapping); c) battery service, charging and replacement but not including repair or rebuilding; d) radiator cleaning and flushing, but not including repair or steam cleaning; e) installation of minor accessories; f) the incidental sale from time to time of motor vehicles but at no time shall more than two vehicles be displayed on the premises of the establishment for sale; and g) the following operations if conducted wholly within an enclosed building: lubrication of motor vehicles; brake adjustment, replacement of brake cylinders and brake fluid lines; minor repair not to include major body work, motor transmission or differential repairing; or any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**Motor Vehicle Repair Shop:** A building, structure or enclosure in which the general business of repairing motor vehicles is conducted, including a public garage.

**Municipal Facilities:** Facilities of the Town of Natick.

**Nonbonus Project:** A project for which the applicant is not seeking a bonus.

**Nonconforming Building Or Use:** An existing building or use of a building or land that does not conform to the requirements or regulations of the district in which it is located and which existed at the time of the adoption of this By-law.

**Office Building:** A building used mainly for clerical or professional purposes, but not for manufacturing, or above the first story for selling goods, except by sample, and not as a dwelling, except by a janitor, and of which the first story may be used also for general commercial purposes.

**Office, Professional:** The office of one engaged in such generally recognized professions as physician, dentist, veterinarian, attorney-at-law, engineer, architect, landscape architect, interior designer or accountant.

**Open Space:** The minimum space on a lot designated in this By-law to be left open and in which no structures, parking, drives or other uses are found that would preclude attractive landscaping.

**Open Space Public Benefit Amenity:** A public benefit amenity in the form of a park or excess pervious landscaping, available for passive or active recreation, or leisure use, by the public.

**Open Storage Yard:** The use of premises for the storage in the open of lumber, stone, brick, gravel, cement and other bulky merchandise, contractors equipment and the like.

**Outdoor Lighting:** For the purposes of Section 6.3, the following definitions shall apply:

**Color Rendering Index (CRI):** A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light.

**Cutoff Angle:** The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

**Direct Light:** Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**Fixture:** The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

**Fully Shielded luminaire:** A lamp and fixture assembly designed with a cutoff angle of 90 degrees, so that no direct light is emitted above a horizontal plane.

**Glare:** Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.



**Height of Luminaire:** The vertical distance from the finished grade of the ground directly below to the lowest direct light emitting part of the luminaire.

**Indirect Light:** Direct light that has been reflected off other surfaces not part of the luminaire.

**Lamp:** The component of a luminaire that produces the actual light.

**Light Trespass:** The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

**Lumen:** A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For purposes of this By-law, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

**Luminaire:** A complete lighting system, including a lamp or lamps and a fixture.

**Overnight Cabins/Tourist Cabins:** A building containing only one or two habitable rooms, which is adapted and used to provide transient sleeping accommodations for hire to not exceed four (4) persons, but not adapted or used for cooking or preparing meals, or for residence by the same persons in excess of ninety (90) days in any calendar year.

**Parcel:** All lots utilized for any purpose in connection with creating a development, e.g. buildings, parking, detention basins.

**Park:** A continuous area of open space which is directly accessible to the public for scenic, recreational or leisure purposes.

**Party Wall:** A fire wall, used or adapted for joint service between two buildings, which may fall on an interior lot line or which may be used to separate adjoining one and/or two-family dwellings on the same lot.

**Pedestrian Circulation Improvement:** A public benefit amenity in the form of a pathway, off-site sidewalk or pedestrian bridge designed to facilitate pedestrian movement.

**Pedestrian Bridge:** A structure designed to convey pedestrians over a watercourse, railroad, or public or private right of way.

**Pedestrian Tunnel:** A structure designed to convey pedestrians under a watercourse, railroad, or public or private right of way.

**Person:** Every individual, partnership, corporation, firm, association, trustee or group, including a city, town, county, authority or other governmental unit, owning property or conducting any activity regulated by this By-law.

**Pervious Landscaping:** Area that is principally covered with natural materials such as grass, live plants and trees.

**Premises:** A lot together with all buildings, structures, and uses thereon.

**Preserved Open Space:** All land not designated for dwellings or accessory structures nor included in a building lot within a Single Family - Town House or other Cluster Development.

**Public Assembly Space:** A room or facility, such as a meeting room, theater, amphitheater or auditorium, which is available on a not-for-profit basis for use by members of the public for civic and cultural events.

**Public Benefit Amenity:** An improvement, facility or financial contribution for the benefit of the public, provided in connection with a development in order to qualify for an increase over the base FAR.

**Public Shade Tree:** All trees within a public way or on the boundaries thereof, and where the boundaries of the way cannot be made certain by records or monuments a tree shall be taken to be within the highway and to be public property until the contrary is shown.

**Public Space:** A legal open space on the premises, accessible to a public way or street, such as yards, courts or open spaces permanently devoted to public use which abuts the premises.

**Public Transit Endowment:** A contribution to a trust fund, maintained by the Town of Natick, or by another governmental body designated by the Board of Selectmen, established for the purpose of providing long-term financial support for local or regional transit systems serving the Regional Center district.

**Public Utility:** A public-service corporation, either private or municipal, supplying or transmitting gas, water, electricity, or communications to any or all members of the public and subject to Federal, State, or Town regulations by virtue of its natural or legal monopoly, except for a corporation or other organization which provides cellular telephone service, personal communications service, or enhanced specialized mobile radio service.

**Regional Center Mixed-Use Development:** The use of a parcel or two or more abutting parcels (developed and operated under a joint operating agreement or as part of a condominium association) for a combination of multi-family residential use and shopping mall use where the shopping mall use has received special permits and site plan approval from the Planning Board pursuant to Section 10.5 and Section 11.7 of this By-Law and where there is enclosed pedestrian

access between all of such parcels. Where a parcel has the benefit of a special permit granted under Section 10.5, all of the parcels included within the application for such special permit must have enclosed pedestrian access to each other.

**Renewable or Alternative Energy:** The following renewable or alternative energy generation activities, products, or technologies: solar (both photovoltaic (PV) and thermal); wind; biomass power conversion or thermal technologies, including R&D related to, or the manufacture of, wood pellets; ultra low emissions high efficiency wood pellet boilers and furnaces; low impact hydro (electric or kinetic); ocean thermal, wave or tidal; geothermal; landfill gas; fuel cells that use renewable energy; advanced biofuels; combined heat and power; electric and hydrogen powered vehicles and associated technologies including advanced batteries and recharging stations.

**Renewable or Alternative Energy Research and Development Facilities:** Facilities used primarily for research, development and/or testing of innovative renewable or alternative energy information, concepts, methods, processes, materials or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes or specialized machinery and devices integral to research or testing may be associated with these uses.

**Restaurant:** Any structure or part thereof, other than a hotel or boarding house, used chiefly for the sale of food to be eaten on the premises, and fitted to serve at once more than four (4) guests. This shall not include establishments engaged in the sale of packaged foods prepared on or off the premises exclusively for consumption off the premises.

**Retail Store:** A structure containing goods for sale. Such goods may include individual items displayed on shelves or racks, free standing or hung on a wall. A retail store shall include establishments engaged in the sale of packaged foods prepared on or off the premises exclusively for consumption off the premises. A retail store may also include those having goods stored in bulk and not readily accessible to the customer, e.g. a retail warehouse where goods are stored on pallets and/or in boxes, in addition to being on sale.

**Road Link:** a roadway connecting to a double lane public highway.

**Row House:** One of a row of attached dwellings, separated by a masonry wall with no openings from the adjacent dwelling. (see TOWN HOUSE).

**School:** A public, non-profit private, parochial or other institution maintained primarily for educational purposes, recognized as such by the Massachusetts Department of Education.

**Service Road:** A road that is designed to provide access to abutting properties to minimize traffic entering onto or exiting from major roadways.

**Setback:** The shortest distance from the boundary line of a street, or lot line, to the wall of a building facing thereon.

**Shopping Mall Use:** as defined in Section 10.5.7.

**Signs:** For the purposes of Section 6.2, the following definitions shall apply:

**Accessory Sign:** Any sign that, with respect to the premises on which it is erected, advertises or indicates one or more of the following: the person occupying the premises or the business transacted on the premises or the sale or letting of the premises or any part thereof, and which contains no other advertising matter.

**Business Sign:** Each separate place of business whether or not consisting of one or more buildings.

**Nonaccessory Sign:** Any billboard, sign or other advertising device that does not come within the foregoing definition of an accessory sign.

**Roof Sign:** Any sign attached to roof framing of the building on which the sign is above the roof level on trusses or legs.

**Sign:** Any letter, word, symbol, drawing, picture, design, device, article or subject that advertises, calls attention to or indicates any premises, persons, products, business or activities, whatever the nature of the material and manner of composition or construction.

**Sign, Size Of:** In applying the maximum height and width limitations prescribed in this By-Law any intermediary removable surface to which a sign is affixed shall be deemed to be part of the sign.

**Standing Sign:** Includes any and every exterior sign that is not attached to a building.

**Sky Exposure Plane:** A theoretical inclined plane, through which the height of a building may not penetrate, that is designed to provide light and air at street level in medium and higher density districts. It rises over the lot at a ratio of vertical distance to horizontal distance set forth in the applicable district regulations.

**Smart Growth Overlay District:** For the purposes of Section 9.4, the following definitions shall apply:

**Administering Agency:** A qualified housing entity will be designated by the PAA pursuant to Section 9.4.2, to review and implement the Affordability requirements affecting Projects.

**Affordable Home ownership Unit:** An Affordable Housing unit required to be sold to an Eligible Household.

**Affordable Housing:** Housing that is affordable to and occupied by Eligible Households.

**Affordable Housing Restriction:** A deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of this Section.

**Affordable Rental Unit:** An Affordable Housing unit required to be rented to an Eligible Household.

**Applicant:** The individual or entity that submits a Project for Plan Approval.

**As of right:** A use allowed under this Section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to this Section shall be considered an as-of-right Project.

**Department or DHCD:** The Massachusetts Department of Housing and Community Development.

**Eligible Household:** An individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Enabling Laws:** G.L. Chapter 40R and 760 CMR 59.00.

**PAA Regulations:** The rules and regulations of the PAA adopted pursuant to this Section.

**Plan Approval:** Standards and procedures which certain categories of Projects in the SGO District must meet pursuant to this Section and the Enabling Laws.

**Plan Approval Authority (PAA):** The local approval authority is the Natick Planning Board which is authorized under this Section to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGO District.

**Project:** A Residential Project undertaken within the SGO District in accordance with the requirements of this Section.

**Residential Project:** A Project that consists solely of residential, parking, and accessory uses.

**SGO District:** The Smart Growth Overlay District established in accordance with this Section.

**Zoning By-law:** The Zoning By-law of the Town of Natick.

**Solid Waste Disposal Facility:** Use of land for the disposal of solid refuse, such as dumps using the sanitary fill method.

**Stable:** A structure for housing any number of the larger domestic animals, such as horses, cattle, swine.

**State Building Code:** The State Building Code of the Commonwealth of Massachusetts, also referred to as the Building Code or the Code.

**Story:** That portion of a building including between the upper surface or top of any tier of beams of a floor and the upper surface or top of the beams of the floor or roof next above.

**Story, half:** An attic having available floor area enclosable within vertical walls four (4) feet in height not exceeding three-fourths (3/4) that of the story next below it.

**Street:** A primary thoroughfare or highway or right of way thirty (30) feet or more in width as dedicated or devoted to public use by legal mapping use, easement or other lawful means.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, gas pump, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. The word structure shall be construed, where the context requires, as though followed by the words or part or parts thereof. However, for purposes of measuring setback from lot lines, structure shall not include fences, retaining walls, rip rapped areas, driveways, parking areas, utility lines or the like.

**Subsidized Housing** Shall mean housing for people of low or moderate income which is constructed, rehabilitated, remodeled and sold, leased or rented by the Town of Natick, the Natick Housing Authority, or by any other public agency, non-profit or limited dividend organization; the construction, remodeling, financing, sale, lease or rental of which housing is regulated and financially assisted by agencies of the government of the United States or of the Commonwealth of Massachusetts under programs the purpose of which is to provide housing for people of low or moderate income. The terms low income, moderate income, and limited dividend corporation shall have the meanings defined in the programs or laws administered by such agencies.

**Tenement House:** Any building occupied or designed to be occupied as a residence by more than two (2) families, including apartment houses and flat houses; also any building other than a hotel having ten (10) or more rooms to be let to lodgers or accommodations for twenty (20) or more lodgers.

**Terminal Island:** A landscaped element at the end of a row of parking, running in a direction parallel to individual parking spaces and having a minimum length equal to the length of any abutting parking space.

**Town House:** A building containing at least three (3) one-family dwelling units attached together by common walls with each dwelling unit located on one or two levels above grade, each unit being served by a separate ground floor entrance.

**Tourist Home:** See BOARDING HOUSE.

**Trailer:** A non-automotive wheeled vehicle, which may be in the form of a flatbed mounted on a wheeled undercarriage, or having a partially or fully enclosed storage means on a wheeled undercarriage, or an operable piece of equipment having a wheeled undercarriage, or the like, designed to be hauled by some other vehicle.

**Trailer Park:** A parcel of land on which there is located or intended to be located two or more trailers occupied for living purposes where all utility services are supplied.

**Transit Amenity:** A public benefit amenity which contributes to the use and/or long-term availability of public transit and is either a transit-related physical alteration or public transit endowment contribution.

**Transit-Related Lane Widening:** A new or expanded lane on an existing street, designed and reserved for use by high occupancy vehicles, such as buses and vans.

**Wireless Communications Facility (WCF):** A transmission and reception base or substation, including fixtures and equipment used for the wireless transmission and reception of radio signals, including but not being limited to: (a) reception and transmission equipment and fixtures such as antennae, communication dishes and similar devices, (b) structures that are erected and used primarily to support such reception and transmission equipment including, without limitation, monopoles, but excluding lattice towers, (c) earth stations and associated equipment, and (d) any accessory mechanical, electronic, or telephonic equipment, fixtures, wiring and protective covering customary and necessary to operate any of the foregoing equipment. It is recognized that the wireless industry technology is rapidly changing and the definition of a WCF may be expanded over time to encompass further technological advances and new devices resulting therefrom. All of such future devices are also intended to be included within this definition. It is specifically intended, however, that a WCF shall include all personal wireless service facilities as defined in Section 332 (c)(7) of the United States Code, Section 332, as amended.

**Wireless Communications Services:** The provision of the following types of services: cellular telephone service, personal communications including wireless and broadcast communications, and enhanced specialized mobile radio service, paging services, and including, without limitation, voice, messaging and data communications using advanced digital communications technologies.

**Accessory Wireless Communications Facility (AWCF):** A WCF located on the same lot and customary and incidental to a use permitted as of right, by special permit, by variance, or as a preexisting nonconforming use, including without limitation, any home mounted wireless transmission/reception box and any fixtures and equipment customary and incidental to a private business exchange also known as a PBX Wireless Campus.

**Building-Mounted Wireless Communications Facility (BMWCF):** Any out-of-doors WCF mounted on, erected on, or supported in whole or in part by an existing building or structure (including without limitation, buildings, water towers, smoke stacks, church steeples, and the like) occupied and/or used primarily for other purposes.

**Free-Standing, Wireless Communications Facility (FSWCF):** Any out-of-doors WCF mounted on the ground or erected on, or supported by, any free-standing monopole structure.

**Height of WCF Structure:** A distance measured from the average finished grade of the land surrounding a WCF tower, or surrounding the exterior walls of a building or other structure containing or supporting a WCF, up to the highest point, surface or projection of such building or structure or the highest point, surface or projection of the WCF itself.

**Indoor Wireless Communications Facility (IWCF):** A WCF mounted inside, erected inside or supported within an existing building or structure (including without limitation, buildings, cupolas, church spires, inactive smoke stacks, and the like) occupied and/or used primarily for other purposes, no portion of which is visible from the exterior of such building or structure.

**Yard, Front:** The area across the whole width of a lot between the front line of the building or buildings thereon and the front line of the lot.

**Yard, Rear:** The area across the full width of the lot between the rear line of the building and the rear line of the lot.

**Yard, Side:** The area between a building and a side line of the lot extending from the front yard to the rear yard.