

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Joint Petition of Hingham Municipal Lighting Plant)
and NSTAR Electric Company d/b/a Eversource)
Energy Pursuant to G.L. c. 40A, § 3 for Individual) D.P.U. 24-135
and Comprehensive Exemptions from the)
Zoning By-law of the Town of Hingham and)
the Zoning Ordinance of the Town of Weymouth)
)

**JOINT PETITION OF HINGHAM MUNICIPAL LIGHTING PLANT
AND NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY
PURSUANT TO G.L. c. 40A, § 3
FOR INDIVIDUAL AND COMPREHENSIVE EXEMPTIONS FROM
THE ZONING ENACTMENTS OF THE TOWNS OF HINGHAM AND WEYMOUTH**

I. INTRODUCTION

Now comes Hingham Municipal Lighting Plant (“HMLP”), a municipally owned electric utility, and NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) (together, the “Petitioners”), and hereby jointly request that, pursuant to the provisions of G.L. c. 40A, § 3, the Department of Public Utilities (the “Department”) grant: (1) individual and comprehensive zoning exemptions from the operation of the *Town of Hingham Zoning By-law* (the “Hingham Zoning By-law”)¹ in connection with the construction by HMLP of a new substation (“Hobart II Substation”) at an area within the existing Hingham Transfer Station at 0 Old Hobart Street (“Hobart II Substation Site”); and (2) individual and comprehensive zoning exemptions from the operation of

¹ Consistent with the Department’s Checklist for Filing of Zoning Exemption Petitions, which is attached hereto as Exhibit H, attested copies of the Hingham Zoning By-law and the Town of Hingham Zoning Map (the “Hingham Zoning Map”) are provided as Exhibit A.

Zoning Chapter 120, Town of Weymouth General Code, (the “Weymouth Zoning Ordinance”)² in connection with the construction by Eversource of a new tap station (“Tap Station”) within an Eversource-owned transmission corridor at 0 Broad Street (“Tap Station Site”).³

The proposed project comprises: (1) a 3.2-mile underground 115 kV transmission line in the Towns of Weymouth and Hingham; (2) a new enclosed substation at the transfer station site (0 Old Hobart Street, Parcel number 106-0-4) in Hingham; and (3) a new tap station on an Eversource-owned transmission corridor (0 Broad Street, Parcel number 20-220-1) in Weymouth that would be owned and operated by Eversource. (The New Line, Hobart II Substation and Tap Station are collectively referred to as the “Project”).

HMLP has the important responsibility of maintaining transmission and distribution services and providing a reliable source of energy to its approximately 10,500 customers. In order to maintain a reliable power supply to the Town of Hingham, HMLP is proposing the Hingham Electrical Infrastructure Reliability Project (HEIRP), which involves construction of a new underground 115 kV transmission line from a new tap station in Weymouth to a new substation at the Hingham transfer station. Moreover, although not needed to address capacity needs in the near-term and not the basis for establishing need in this proceeding, the proposed Project offers the distinct benefit of addressing peak load growth associated with the electrification necessary to meet the Town of Hingham’s and the Commonwealth’s climate goals.

² Consistent with the Department’s Checklist for Filing of Zoning Exemption Petitions, which is attached hereto as Exhibit H, attested copies of the Weymouth Zoning Ordinance including the Zoning Map of the Town of Weymouth (the “Weymouth Zoning Map”) are provided as Exhibit B.

³ The provisions of G.L. c. 164, § 72 do not apply to municipal light plants such as HMLP by virtue of G.L. c. 164, § 2, which sets out the specific sections of Chapter 164 that apply to investor-owned utilities that are also to be construed as applying to municipal light plants. Section 72 is not one of those identified sections. It should be noted that G.L. c. 164, §§ 69H - 69R apply to municipal light plants because the definition of “electric company” in G.L. c. 164, § 69G specifically includes them.

The Hobart II Substation Site is a 9.7-acre parcel that also contains a capped landfill and is currently used as the Town of Hingham's Transfer Station. HMLP's existing Hobart Substation is located on a separate parcel located at the northwest corner of the transfer station property. Hobart Substation is bordered on the west, south and east by the transfer station lot and to the north by the Old Hobart Street right-of-way ("ROW"). The Transfer Station parcel is bordered by Brewer Reservation to the east, the capped landfill to the south, Bouve Pond Conservation Area and a residence to the west and an undeveloped lot to the north. The proposed substation will be located on an approximately 24,000 sf area at the northeastern corner of the transfer station parcel. Underground stormwater management best management practices ("BMPs") are proposed within adjacent driveways, for a total impact area associated with the Hobart II Substation of approximately 31,000 sf.

According to the Town of Hingham Zoning Map (2015), the proposed Hobart II Substation Site is located within the Official and Open Space District and the Personal Wireless Services Overlay District.

The Tap Station Site is located at 0 Broad Street in the Residence District R-1 per the Weymouth Zoning Map. The Tap Station Site is not within the Watershed Protection, Groundwater Protection, or Floodplain districts.

The Tap Station Site is an approximately 11.6-acre Eversource-owned transmission corridor that currently operates as an active electric utility ROW, consisting of electric transmission lines and gravel access roads. The proposed location of the Tap Station is adjacent to the eastern edge of the existing lines within the Eversource transmission corridor.

The Project may be construed as being inconsistent with land use and several dimensional and other provisions of the Hingham Zoning By-law and Weymouth Zoning Ordinance. At the

same time, the construction of the Project is needed immediately in order for HMLP to continue to provide reliable service to its customers. Thus, the Petitioners are seeking from the Department exemptions from the operation of the Hingham Zoning By-law and Weymouth Zoning Ordinance to allow for the timely construction of the Hobart II Substation and the Tap Station.

The Petitioners also respectfully request comprehensive exemptions from the operation of both the Hingham Zoning By-law and Weymouth Zoning Ordinance with respect to the proposed facilities. The Department has recognized that comprehensive zoning relief is appropriate in circumstances where, as here, numerous individual exemptions are required, the Project is proposed in multiple municipalities, and the issuance of a comprehensive exemption could avoid substantial public harm by serving to prevent delay in the construction and operation of the proposed use.

As shown below, the need for the Project is immediate and numerous exemptions are required. Moreover, issuance of a comprehensive exemption here would avoid substantial public harm by serving to prevent a delay in the construction and operation of the proposed use. Therefore, the grant of a comprehensive zoning exemption is warranted. *Park City Wind LLC*, EFSB 20-01/D.P.U. 20-56/20-57, at 208-209 (2023) (“*Park City Wind*”); *New England Power Company d/b/a National Grid*, EFSB 19-04/D.P.U. 19-77/19-78, at 126-127 (2021) (“*Beverly-Salem*”); *NSTAR Electric Company d/b/a Eversource Energy*, EFSB 17-02/D.P.U. 17-82/17-83, at 215 (2019) (“*Sudbury-Hudson*”); *Vineyard Wind LLC*, EFSB 17-05/D.P.U. 18-18/18-19, at 109-110 (2019) (“*Vineyard Wind*”).

Simultaneously with this Zoning Petition, HMLP is filing: (a) a petition with the Energy Facilities Siting Board (the “Siting Board”) requesting the authorization to construct and operate the Project pursuant to G.L. c. 164, § 69J (the “Siting Board Petition”); and (b) motions with the

Department and the Siting Board in both dockets requesting that the Department refer the Zoning Petition to the Siting Board and that the Siting Board consolidate both Petitions for review and decision. See G.L. c. 25, § 4; G.L. c. 164 § 69H(2).⁴ The Petitioners incorporate by reference herein the Siting Board Petition together with all attachments. The Siting Board Petition, including the “Analysis to Support Petition Before the Energy Facilities Siting Board” (the “Analysis”), filed as of this same day, provides a detailed assessment of the need for the Project, alternative approaches and sites, and supports HMLP’s conclusion that the Project, which encompasses both the proposed Hobart II Substation and the Tap Station, is needed to maintain reliable electric supply to the Town of Hingham, at least cost and with the least environmental impact.

II. DESCRIPTION OF THE PROJECT

The proposed Project comprises: (1) a 3.2-mile underground 115 kV transmission line in the Towns of Weymouth and Hingham; (2) a new enclosed substation at the transfer station site (0 Old Hobart Street, Parcel number 106-0-4) in Hingham; and (3) a new tap station on an Eversource-owned transmission corridor (0 Broad Street, Parcel number 20-220-1) in Weymouth that would be owned and operated by Eversource.

Hobart II Substation

The new Hobart II Substation is proposed to be built in close proximity to the existing Hobart Substation. HMLP will construct, own, and operate the Hobart II Substation. The Hobart II Substation will include the following activities and addition of equipment:

- Site clearing and grading within a defined limit of disturbance

⁴ G.L. c. 40A, § 3, specifically references the Department. The Department refers zoning exemption petitions to the Siting Board for hearing and decision pursuant to G.L. c. 25, § 4. In accordance with G.L. c. 164, § 69H, when deciding matters under a Department statute, the Siting Board applies Department and Siting Board standards “in a consistent manner.” Indeed, the Siting Board and the Department issue decisions under G.L. c. 40A, § 3 using consistent standards of review. Accordingly, the instant zoning exemption petition includes cites to both Siting Board decisions and Department orders interpreting G.L. c. 40A, § 3.

- Construction of a retaining wall
- Installation of stormwater management BMPs
- Construction of a gas-insulated switchgear (“GIS”) substation within an enclosed structure
- Installation of fencing
- Installation of pad-mounted transformers
- Space for a future transformer and switchgear
- Space for roll-offs for use by the Town of Hingham Department of Public Works (“DPW”) as part of transfer station operations

See Exhibit C for a copy of the USGS locus map and Exhibit D for a conceptual design plan showing the Hobart II Substation.

Weymouth Tap Station

The Tap Station is proposed to be built on an Eversource-owned transmission corridor located off Broad Street in Weymouth. Eversource will construct, own, and operate the Tap Station. The Tap Station will include the following activities and addition of equipment:

- Site clearing and grading within a defined limit of disturbance
- Upgrading of the existing gravel access road to support construction equipment
- Installation of stormwater management BMPs
- Installation of an air-insulated switchyard (“AIS”)
- Installation of four shielding masts at 85 feet each within the security fence line
- Construction of an electrical control enclosure
- Installation of security fencing
- Spreading of crushed stone within the security fence line
- Installation of three electric transition structures (two for the incoming 115 kV transmission line and one for the new line to Hobart Substation)
- Installation of one distribution tangent pole
- Construction of associated parking and a new vehicular access drive
- Installation of vegetated screening

See Exhibit E for a copy of the USGS locus map and Exhibit F for a conceptual design plan showing the Tap Station.

The current cost estimate for Hobart II Substation is approximately \$11.6 million, and the estimate for the Tap Station is \$38.1 million. The cost estimate for the overall Project, including the transmission line, is approximately \$104.7 million (-25%/+50%, 2024 dollars). The overall cost estimate includes design and engineering, procurement, supply of materials and equipment, construction and equipment installation, civil/site construction, pre-commissioning and commissioning and start-up.

III. COMMUNITY OUTREACH

The Petitioners' representatives have met on numerous occasions with municipal officials, residents, business owners and other stakeholders to discuss the substation and tap station sites, as well as the routes considered for the new transmission line, and to obtain input on these siting and routing options. This process began in 2020 and, as of the date of this filing, has included more than 32 meetings.

A summary of the meetings where the Hobart II Substation, Tap Station and transmission line routing were discussed is provided in Table 1.

TABLE 1⁵
Stakeholder Input on Station Siting

Date	Participants	Input Received
12/14/2020	Hingham Department Heads	Input on potential substation sites
12/21/2020	Hingham Conservation Commission	Input on potential substation sites

⁵ Note: This table is an overview and does not provide details regarding all items discussed at the meetings listed. In addition, this table may have omitted additional meetings where some of the same siting-related topics were discussed and/or conveyed to HMLP.

TABLE 1^s
Stakeholder Input on Station Siting

Date	Participants	Input Received
2/17/2021	Hingham Select Board	Input on potential substation sites
2/25/2021	Hingham Outreach Meeting	Input on potential substation sites from neighbors
3/16/2021	Hingham Select Board	Input on potential substation sites
3/18/2021	Hingham Advisory Committee Meeting	Input on potential substation sites
3/23/2021	Hingham Advisory Committee Meeting	Input on potential substation sites
4/6/2021	Weymouth Mayor and staff	Initial meeting to present tap station site and route analysis. Mayor provided suggestions.
9/29/2021	Weymouth Mayor and staff	Follow-up meeting with the Mayor to discuss tap station site and updated route analysis
10/18/2021	Hingham Community Meeting	Input on proposed substation site
11/18/2021	Hingham Community Meeting	Input on potential substation sites
1/31/2022	Weymouth Mayor	Follow-up meeting with the Mayor to discuss updated route analysis
3/1/2022	Hingham Advisory Committee Meeting	Input on proposed substation site
4/5/2022	Weymouth Councilors (DiFazio, Mathews)	Discuss proposed routes and tap station sites
4/30/2022	Hingham Town Meeting	Authorized Select Board to transfer custody and control of parcel of land at the Town's transfer station to HMLP for substation purposes
5/3/2022	Weymouth Conservation Commission, Fore River Watershed	Discuss proposed routes and tap station sites

TABLE 1^s
Stakeholder Input on Station Siting

Date	Participants	Input Received
	Association, Herring Warden	
6/17/2022	Weymouth Councilors	Discuss proposed routes and tap station sites
8/25/2022	Weymouth Open House	Discuss proposed routes and tap station site
8/31/2022	Weymouth Planning Director	Discuss proposed tap station sites, zoning relief and zoning exemptions
9/13/2022	Weymouth Open House	Discuss proposed routes and tap station sites
9/28/2022	Hingham Open House	Discuss proposed routes and substation site
10/12/2022	Community Zoom Meeting (Hingham/Weymouth)	Discuss proposed routes and substation and tap station sites
1/10/2023	Weymouth Mayor and staff	Discuss proposed routes and tap station sites
10/16/2023	Weymouth Mayor and staff	Discuss proposed routes and tap station sites
1/04/2024	Weymouth outreach – Union Towers I residents and management	Information tables set up to promote Focused Meeting on 01/25/24 at Union Towers I to discuss tap station site and proposed routes
1/05/2024	Weymouth outreach – Union Towers II, residents and management	Information tables set up to promote Focused Meeting on 01/26/24 at Union Towers II to discuss tap station site and proposed routes
1/25/2024	Weymouth outreach – Union Towers I, residents and management	Focused meeting on tap station site, and discussion of proposed routes (engaged Cantonese interpreters)
1/26/2024	Weymouth outreach – Union Towers II,	Focused meeting on tap station site, and discussion of proposed routes

TABLE 1^s
Stakeholder Input on Station Siting

Date	Participants	Input Received
	residents and management	
03/11/2024	Weymouth outreach – Jimmy’s Diner	Held a tabling event at popular eatery where Eversource engaged patrons to attend Open House on 03/19/24. Passed out invitations that included project information
3/12/2024	Weymouth Mayor and staff	Discuss proposed routes and tap station site
4/19/2024	Weymouth – Crossroads Church, Hingham and Weymouth abutters	Open House meeting focused on tap station site and proposed routes (engaged Spanish and Brazilian Portuguese interpreters)
6/4/2024	Hingham Planning Board and Zoning Board of Appeals public meeting	Informal review of substation proposal; Boards voted to recommend conditions for the Select Board to consider in connection with their transfer of the custody and control of the Substation parcel to HMLP

Following the submittal of this Petition, and throughout the permitting and construction of the Project, the Petitioners will continue to communicate with Town of Weymouth and Town of Hingham officials and other interested parties with regard to any concerns or issues that may arise.

Hingham Informal Process

On April 12, 2024, HMLP submitted design information on its proposed Hobart II Substation to the Hingham Planning Board and Zoning Board of Appeals as part of an informal review process to be undertaken by the Boards. The Boards subsequently held a public meeting on the Project on June 4, 2024. The Boards published notice of the meeting in The Hingham Journal on May 16 and 23, 2024, and provided notice to abutters within 300 feet of the transfer station property. In addition, HMLP advised customers of the June 4, 2024 meeting (via letter and bill insert) and posted information regarding the meeting on the Project website. HMLP also issued

a press release regarding the Project and joint Planning Board/Zoning Board of Appeals meeting, which was published in the Hingham Anchor on May 20, 2024.⁶ HMLP has posted a recording of the meeting on its HEIRP website.

The June 4, 2024 meeting included approximately 38 attendees including Board members and members of the public, who were invited to make comments and ask questions. The Boards reviewed the project, indicated no opposition to the proposed substation, and voted to recommend conditions for the Select Board to consider in connection with their transfer of the custody and control of the Substation parcel to HMLP.⁷ The Boards' recommendations are provided as Exhibit G. HMLP intends to construct the proposed substation consistent with the Boards' recommended conditions.

IV. STANDARD OF REVIEW

G.L. c. 40A, § 3 provides, in relevant part, that:

Land or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or bylaw if, upon petition of the corporation, the [Department]... shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

A petitioner seeking exemption from a local zoning bylaw under G.L. c. 40A, § 3 must meet three criteria. First, the petitioner must qualify as a public service corporation. *See Save the Bay, Inc. v. Dep't of Pub. Utils.*, 366 Mass. 667 (1975); *Park City Wind* at 169. Second, the petitioner must

⁶ As a result of a typographical error, a portion of the Zoom meeting ID was inadvertently omitted from a HMLP mailer and the update posted on the HEIRP website. The full Zoom meeting ID was provided in all mailings to abutters, published in the newspapers, and posted on the Town of Hingham's website and in a press release available on the HEIRP website.

⁷ On April 30, 2022, Town Meeting voted to authorize the Select Board to transfer a portion of the transfer station site to the custody and control of HMLP for substation purposes, on terms and conditions acceptable to the Select Board. This authorization is required to transfer custody and control of a parcel from one Town department to another. *See* G.L. c. 40, § 15A.

establish that it requires a zoning exemption. *See Park City Wind* at 169; *Sudbury-Hudson* at 193; *Vineyard Wind* at 132; *NSTAR Electric Company d/b/a Eversource Energy*, EFSB 14-02/D.P.U. 14-73/14-74, at 90 (“*Eversource Walpole-Holbrook*”). Third, the petitioner must demonstrate that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare. *See Sudbury-Hudson* at 193; *Vineyard Wind* at 132; *Eversource Walpole-Holbrook* at 90.

V. HMLP AND EVERSOURCE ARE PUBLIC SERVICE CORPORATIONS

In determining whether a petitioner qualifies as a “public service corporation,” the Supreme Judicial Court (the “SJC”) has stated:

[A]mong the pertinent considerations are whether the corporation is organized pursuant to an appropriate franchise from the State to provide for a necessity or convenience to the general public which could not be furnished through the ordinary channels of private business; whether the corporation is subject to the requisite degree of governmental control and regulation; and the nature of the public benefit to be derived from the service provided.

Save the Bay, 366 Mass. at 680. *See also Park City Wind* at 170; *Sudbury-Hudson* at 194; *Berkshire Power Development, Inc.*, D.P.U. 96-104, at 26-36 (1997) (“*Berkshire Power*”).

The Department has stated that it interprets this list not as a test, but rather as guidance to ensure that the intent of G.L. c. 40A, § 3 will be realized, which includes that a present or proposed use of land or structure that the Department determines is “reasonably necessary for the convenience or welfare of the public,” is not foreclosed due to local opposition. *See, e.g., Berkshire Power* at 30; *Save the Bay*, 366 Mass. at 685-686; *Braintree Electric Light Department*, EFSB 07-01/D.T.E./D.P.U. 07-05, at 86 (2008) (“*2008 Braintree Electric Decision*”).

The Department has interpreted the “pertinent considerations” in its analysis as a “flexible set of criteria which allow the Department to respond to changes in the environment in which the industries it regulates operate and still provide for the public welfare.” *Berkshire Power* at 30; see

also *Dispatch Communications of New England d/b/a Nextel Communications, Inc.*, D.P.U./D.T.E. 95-59B/95-80/95-112/96-113, at 6 (1998).

A. Eversource Is a Public Service Corporation

Eversource has its principal place of business at 800 Boylston Street, 17th Floor, in the City of Boston, Massachusetts 02199. Eversource is an electric company as defined in G.L. c. 164, § 1 and, therefore, is a public service corporation authorized by the Commonwealth to transmit and distribute electricity. *See Sudbury-Hudson* at 194; *NSTAR Electric Company d/b/a Eversource Energy*, EFSB 19-06/D.P.U. 19-142/19-143, at 99-100; (2022) (“*Mid-Cape Reliability Project*”); *Eversource Walpole-Holbrook* at 91. As an electric company and a public service corporation in the Commonwealth, Eversource is entitled to seek a zoning exemption pursuant to G.L. c. 40A, § 3. *Save the Bay, supra* at 680.

B. HMLP Is a Public Service Corporation

HMLP is a municipal light plant with a place of business at 31 Bare Cove Park Drive, Hingham, Massachusetts 02043. In 1995, the SJC upheld the Department’s decision that a municipal light plant is a public service corporation for the purposes of G.L. c. 40A, § 3. See *Braintree Electric Light Department*, D.P.U. 90-263 (1991) *aff’d. Planning Board of Braintree, v. Department of Public Utilities*, 420 Mass. 22, 26 (1995). In that case, the SJC found that “[b]ecause they have the same duty to serve as private utilities, municipal utilities need to have the same tools available to perform their duty, including the G.L. c. 40A, § 3 exemption.” *Planning*

Board of Braintree, supra at 28. Accordingly, HMLP qualifies as a public service corporation entitled to seek a zoning exemption pursuant to G.L. c. 40A, § 3.

VI. THE PROJECT IS REASONABLY NECESSARY FOR THE PUBLIC CONVENIENCE OR WELFARE

A. Standard of Review

In determining whether a present or proposed use is reasonably necessary for the public convenience or welfare, the Department balances the interests of the general public against the local interest. *See Save the Bay, supra*, at 680; *see also Town of Truro v. Dep’t of Pub. Utils.*, 365 Mass. 407, 409 (1974). Specifically, the Department undertakes “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected.” *New York Central Railroad v. Department of Public Utilities*, 347 Mass. 586, 592 (1964). When reviewing a petition for a zoning exemption, the Department considers the public effects of the requested exemption in the state as a whole and upon the territory served by the petitioner. *Id.*; *See also Save the Bay, supra* at 685.

With respect to the project site chosen by a petitioner, a petitioner is not required to demonstrate that its preferred site is the best possible alternative, nor must the Department consider and reject every possible alternative site presented. *See Commonwealth Electric* 2003, at 5. Rather, the availability of alternative sites or routes, the efforts necessary to secure them, and the relative advantages and disadvantages of those sites are matters of fact bearing solely upon the main issue of whether the preferred site is reasonably necessary for the convenience or welfare of the public. *See Martarano v. Department of Public Utilities*, 401 Mass. 257, 265 (1987); *New York Central Railroad* *supra* at 591; *NSTAR Carver* 2008, at 5.

Therefore, when making a determination as to whether a petitioner's present or proposed use is reasonably necessary for the public convenience or welfare, the Department examines: (1) the need for, or public benefits of, the present or proposed use; (2) the present or proposed use and any alternatives or alternative sites identified; and (3) the environmental impacts or any other impacts of the present or proposed use. The Department then balances the interests of the general public against the local interest and determines whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public. *See Park City Wind* at 174-177; *Mid-Cape Reliability Project* at 100-101; *Sudbury-Hudson* at 195; *Vineyard Wind* at 136-137.

B. Public Benefit and Need for the Project

The Project is needed to ensure the reliability of electric service for the customers of HMLP, which includes all residents and businesses within Hingham, serving approximately 10,500 customer meters. Moreover, while not needed for capacity purposes in the near-term, the proposed Project offers the distinct benefit of addressing peak load growth associated with the electrification necessary to meet the Town of Hingham's and the Commonwealth's climate goals. As the Town and the Commonwealth continue to pursue greater electrification consistent with climate goals, the Project will ensure adequate capacity for the transformation toward electrification and reduction of fossil fuels.

HMLP is currently served by a single bulk power substation known as "Hobart Substation," located at 190 Old Hobart Street in Hingham, adjacent to the Town landfill and recycle center. HMLP's current substation and distribution system is designed to allow for loss of a single 115/13.8 kV transformer while still retaining the capability to serve the highest load demand of the Town.

The Hobart Substation currently is fed via two overhead 115 kV transmission lines covering a distance of approximately 3.3 miles, which are supported by both wood and metal structures, including 22 double-circuit towers (“DCTs”), where the two transmission lines share the same single pole. This configuration is susceptible to contingency events that can result in simultaneous loss of service from both transmission lines. If even a single DCT pole supporting the two lines falls or is otherwise disabled, service to Hobart Substation would be interrupted and all customers within the Town of Hingham would be subjected to an extended outage. An extended outage could also occur if one transmission line is out of service for maintenance and there is an outage event on the remaining transmission line. There currently is only one substation in Hingham and there are no distribution ties that HMLP can access from adjacent substations upon loss of transmission lines or a substation. Because HMLP has no other substations to leverage in the event of either a N-1 or N-1-1 contingency, loss of service to Hobart Substation results in loss of service to the entire Town.

A comprehensive discussion of need is presented in Section 2 of the Analysis, the contents of which are incorporated by reference herein.

Based on the conditions described above, HMLP has concluded that, due to the identified reliability concerns, there is an existing and immediate need to mitigate the potential for loss of service to the Town. The preferred solution to address the identified need is the construction of a new transmission line from a new tap station from Eversource’s existing Line #478-502 located in Weymouth to a new substation in Hingham.

C. Project and Site Alternatives Considered

In addition to the proposed Project, HMLP identified and assessed potential alternatives that also could meet the identified need that is satisfied by the proposed Project, including

alternative technologies, locations and configurations. HMLP analyzed a number of potential project alternatives from the perspective of their ability to reliably meet the identified need with a minimum impact on the environment and at the lowest possible cost. Specifically, HMLP considered the following alternatives: a “No-Build” alternative; Transmission (or wires) alternatives; and Non-transmission alternatives (“NTAs”), including new renewable generation, energy efficiency (“EE”) and energy storage technologies, either alone or in combination with renewable resources. In evaluating alternatives, HMLP considered issues relating to site availability, complexity, cost, feasibility, and the time required to implement them in order to address the identified need in an efficient, reliable, long-lasting, least-cost and least-environmental-impact manner. Alternative approaches, including HMLP’s alternative siting and routing analyses, are described in Sections 3 and 4 of the Analysis. As shown therein, the Project is the superior alternative for meeting the identified need in a reliable manner, at least cost and with the least environmental impact. The following sections summarize the alternatives analyses conducted for each station site.

Site Alternatives for Hobart II Substation

HMLP focused its selection process on 10 municipally-owned properties⁸ within the vicinity of the Hobart Substation. None of the parcels or combination of parcels could accommodate the minimum one acre of area needed for an AIS substation, so the analysis proceeded to identify areas that could accommodate a more compact GIS substation. A GIS substation requires approximately ½ of an acre of land. The majority of sites were less than one

⁸ Municipally-owned properties in Hingham are advantageous to HMLP because there is little private land available and what is available is very expensive; and, the Town can transfer custody and control of its properties to HMLP without additional cost to the ratepayers. HMLP does not have authority to purchase privately-owned properties on its own. In order for HMLP to site facilities on privately-owned property, the Town first would need to purchase any such property pursuant to a Town Meeting vote for HMLP’s purposes.

acre, with many less than $\frac{1}{2}$ of an acre. The only available site of greater than one acre of land is the Town transfer station site. The DPW initially informed HMLP that it could not accommodate an expansion of the existing substation into the transfer station or the capped landfill area without negatively impacting the services that the transfer station provides the Town. Wetland resources constrained most of the other sites assessed. Of the parcels analyzed, 0 Hobart Street / Parcel 106-0-61, a triangular property bounded by Hobart Street to the north, Old Hobart Street to the south and west, and Sam Ryder Road (transfer station access road) to the east, was the only site with adequate developable area for a GIS substation in proximity to the Hobart Substation. HMLP held several meetings with Town officials and abutters regarding the use of this triangularly-shaped site, and based on the negative feedback from these groups, HMLP reassessed the transfer station site with Town staff, including the DPW. An area in the northeast corner of the transfer station site was identified as it would not affect the capped landfill and would have minimal impacts to the transfer station operations. Accordingly, the transfer station site is the preferred site for the Hobart II Substation.

Site Alternatives for Weymouth Tap Station

HMLP assessed fifteen (15) lots within and along the Eversource ROW in Weymouth, extending from the Weymouth Fore River to the north to the intersection with Route 53 to the south. Sites were assessed for suitability for an AIS tap station; specifically, sites large enough to accommodate an AIS, which typically requires approximately 1 to 1.5 acres of land, and those sites are not located near residences or other sensitive abutters, were favored. An AIS tap station is generally preferable in situations where there is adequate land and there are no immediately adjacent residential or sensitive abutters.

Of the parcels assessed, the Tap Station Site (Eversource-owned parcel 20-220-1), a 11.6-acre site, had adequate unconstrained area for a new tap station within an existing Eversource-owned transmission corridor, and was not located near any residences or other sensitive abutters. Two smaller lots adjacent to the ROW and owned by National Grid were heavily constrained by wetland resources. One lot was less than $\frac{1}{4}$ acre. The larger lot (1.5 acres) was constrained by wetlands and a stream that restricts the entire frontage of the parcel from Broad Street. Furthermore, both of these National Grid lots directly abut residential properties. As such, the Tap Station Site is the preferred site for the proposed tap station due to its proximity to the electric transmission lines within the ROW, the availability of land that is unconstrained by environmental resource areas and its proximity to HMLP's Hobart Substation, which both reduces costs by shortening the length of transmission lines needed for the interconnection, and reduces impacts to the community associated with construction in public ways. Furthermore, the location on the ROW has no close residential or sensitive abutters and visual impacts should be minimal, especially with enhanced landscaping proposed around the perimeter of the tap station.

D. Potential Environmental Impacts – Hobart II Substation (Hingham)

HMLP has conducted detailed analyses of the environmental effects of the Hobart II Substation, identified the relevant impacts and proposed measures to minimize impacts associated with the construction and operation of the substation. Comprehensive information regarding the nature of environmental impacts potentially associated with the substation project, and methods of avoidance and minimization of impacts are set forth below.

Construction: Construction of the proposed Hobart II Substation is expected to last about 18 months and will involve clearing and grubbing, grading, installation of a retaining wall, installation of structure foundations, construction of GIS within an enclosed structure, installation

of stormwater management treatment and infiltration system, installation of security fencing and site appurtenances.

Construction hours will be developed in accordance with local noise ordinances, allowed construction hours and coordination with the Town of Hingham and the Hingham DPW. The Town of Hingham limits construction hours to 7:00 AM to 7:00 PM, Monday through Friday and 8:00 AM to 7:00 PM on Saturday and Sunday. During construction, HMLP and the contractors will work to minimize impacts to the transfer station operations.

Sound levels from typical construction equipment that would be used during construction range from 60 dBA to 90 dBA at a distance of 50 feet from the construction activity. Some work tasks, once started, may require continuous operation until completion and may need to be performed on a limited basis outside of normal work hours, including Sundays and holidays.

HMLP and its contractors will also comply with state law (G.L. c. 90, § 16A) and MassDEP regulations (310 CMR. 7.11(1)(b)), which limit vehicle idling to no more than five minutes. There are exceptions for vehicles being serviced, vehicles making deliveries that need to keep their engines running and vehicles that need to run their engines to operate accessories. There may be other times when idling is permitted as long as the idling is absolutely necessary (e.g., as a matter of safety). With respect to enforcement of the idling restrictions, it is the responsibility of every person on a job site to be in full compliance with all safety and environmental rules and policies. Supervisors at job sites are responsible for enforcement of these rules on a continuous basis.

HMLP and their contractors will also employ BMPs related to dust and air quality in and around the active construction zone. Dust will be controlled at the construction sites by use of

appropriate methods, including covering temporary soil stockpiles, use of water trucks with misters as needed and regular street sweeping.

To minimize air emissions from equipment operation, HMLP will direct its contractors to retrofit any diesel-powered, non-road construction equipment rated 50 horsepower or above, with an engine that is not certified to United States Environmental Protection Agency (“USEPA”) Tier 4 standards and that will be used for 30 days or more over the course of the Project, with USEPA-verified (or equivalent) emission control devices (e.g., oxidation catalysts or other comparable technologies).

HMLP will develop and maintain a Stormwater Pollution Prevention Plan (“SWPPP”) for the Project that will include the transmission line, Hobart II Substation and Weymouth Tap Station construction work. The SWPPP will identify controls to manage construction-related storm water discharges from the Project during construction. The SWPPP will include a construction personnel contact list, a description of the proposed work, stormwater controls and spill prevention measures, and inspection practices to be implemented. The contractor(s) will be required to adhere to the SWPPP during all phases of Project construction in accordance with the general conditions prescribed in the USEPA National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit. At the Hobart II Substation site, erosion control measures will be installed at the downgradient limit of work to minimize erosion and sedimentation from the construction activities. Where work is to be performed adjacent to storm drains and catch basins, HMLP’s contractors will install and maintain filter fabric barriers at catch basins to prevent sediment from entering the storm drain system.

Land Use: The Hobart II Substation site is located at the Hingham Transfer Station. The transfer station site is approximately 9.7 acres and is an active transfer station and capped landfill.

The existing Hobart Substation is located on a separate parcel at the northwest corner of the transfer station. A portion of land in the northeast corner of the transfer station site has been identified for the proposed Hobart II Substation. This area is a forested embankment adjacent to the active transfer station operations that slopes from the existing paved area up to the bordering conservation area. The transfer station consists of truck loading areas, roll-off for refuse collection, scales, and driveway.

The Hobart II Substation site in Hingham is abutted by the transfer station access road and Hobart Street to the north, Brewer Reservation municipal conservation land to the east, the former Hingham landfill to the south, and the Hingham transfer station to the west. HMLP's existing Hobart Substation is located at the northwestern corner of the transfer station site. Property uses near the proposed Hobart II Substation are generally conservation land and transfer station/former landfill. The site was chosen after an extensive assessment focused on municipal properties in the vicinity of the existing Hobart Substation and input from the public.

The total area of disturbance associated with the Hobart II Substation is approximately 31,000 sf.

Wetlands and Waterbodies: Wetland resource areas in the vicinity of the Hobart II Substation site were delineated in December 15, 2020, and April 1, 2021. Wetland boundaries were established in accordance with the provisions of the Massachusetts Wetlands Protection Act, the Hingham Wetlands Regulations, and the United States Army Corps of Engineers methodology based on the plant community, soils, and hydrology.

The proposed Hobart II Substation is sited outside of the 50-foot buffer zone to a wetland resource area located across from the transfer station access road. Approximately 7,100 sf of work is proposed between the 50-foot and 100-foot Buffer Zone of delineated Bordering Vegetated

Wetland (“BVW”) resource areas. A small area (approximately 660 sf) of work (minor grading and installation of erosion control measures) is proposed within the 50-foot Buffer Zone to BVW. Structural stormwater management BMPs will be implemented to treat and infiltrate stormwater runoff from the new impervious surfaces. No wetlands will be impacted by the Hobart II Substation construction, and no long-term impacts to such resources are anticipated from the operation of the substation. A Notice of Intent will be filed with the Hingham Conservation Commission requesting an Order of Conditions for this work.

Stormwater Management: The proposed stormwater management system will treat both the quality and the quantity of stormwater discharge from the site. The system includes BMPs such as deep-sump, hooded catch basins, proprietary stormwater treatment units, and a subsurface infiltration system.

A brief description of the proposed BMPs incorporated into the stormwater management system are as follows:

- Deep-Sump, Hooded Catch Basins: Catch basins provided throughout the site collect stormwater runoff from the proposed parking areas and are connected to the project’s stormwater collection system. The deep-sump and hooded outlet provides separation of runoff from solids and floatable pollutants prior to discharge and are used as a pretreatment device throughout the project.
- Proprietary Treatment Devices: Structural stormwater treatment devices, proposed as Stormceptor 450i, are designed to mechanically separate pollutants from stormwater flows through centrifugal force and vortex separation. Units are proposed at the ends of both major treatment trains in the stormwater management system, prior to discharging into the subsurface infiltration system. Each unit has been sized in

accordance with guidance provided by MassDEP to insure proper sediment removal efficiencies.

- Subsurface Infiltration System: The subsurface infiltration system consists of pre-fabricated chambers set in a bed of gravel. The system has been sized to infiltrate the required recharge volume. Once full, the subsurface infiltration system will discharge through an outlet manhole.

Visual: The Hobart II Substation's location within the Hingham transfer station property is approximately 100 feet from Hobart Street. The proposed substation will be constructed on approximately $\frac{1}{2}$ acre of land along the northeastern corner of the transfer station site. The Hobart II Substation includes:

- New Gas Insulated Substation (enclosed, approximately 54 feet x 64 feet by 25 feet in height)
- Circuit breakers
- Bus work
- Protection and communications equipment
- Stormwater management system
- Retaining wall
- Space for a future transformer
- Space for future switchgear
- Space for two DPW containers

The substation is screened from Hobart Street by land that is part of the Brewer Reservation conservation area. The substation, which at 25 feet is the tallest structure within the Hobart II Substation site, will be visible from within the transfer station and from the Brewer Reservation.

The substation will be enclosed in a steel building similar to the transfer station structures. The Substation will be surrounded by an 8-foot-tall chain link fence.

Noise: Work at the Hobart II Substation site will take place over an approximately 12-18 month period. Construction activities will include site preparation and the installation of a retaining wall, stormwater management system, the GIS building, new electrical equipment, support structures and foundations. The site has been chosen to minimize impacts to the nearby residences. The nearest resident is located to the west of the transfer station, approximately 400 feet from the proposed substation site. During construction, nearby residences may be affected by temporarily elevated noise levels associated with a typical construction site. Construction will comply with the Town of Hingham and MassDEP regulations related to noise. To further mitigate construction noise at nearby residences, HMLP plans to:

- Require well-maintained equipment with functioning mufflers
- Require strict compliance with MassDEP's Anti-Equipment Idling regulations
- Operate stationary noise generating equipment away from nearby residences
- Comply with municipal restrictions on construction hours when feasible
- Work with the Town to schedule construction outside these hours only where necessary.

HMLP anticipates that these measures will appropriately minimize construction-related noise impacts in the areas near the Hobart II Substation and comply with the applicable noise ordinances. No increase in operational noise is anticipated.

The primary sources of noise in the vicinity of the proposed substation include the existing Hobart Substation and the transfer station, which are immediately adjacent to the Hobart II Substation area and closer to residences. At this time, no transformer is proposed, so no new noise emission is anticipated from the site operations.

Traffic: The proposed Hobart II Substation will be located off public roads, and limited impacts to traffic are anticipated for the construction of the substation. Access to the substation site will be through the Hingham Transfer Station access. Traffic impacts associated with substation construction are expected to be minor and temporary in nature. HMLP will coordinate construction activities with the DPW so as to minimize impact on the transfer station operations. To the extent practicable, construction that will require work that would disrupt the traffic flow within the transfer station will occur outside of the transfer station's hours of operations, which are currently between the hours of 7:00 AM and 4:00 PM Thursday through Sunday.

After construction, the substation will not generate additional traffic. HMLP staff will access the new Hobart II Substation in a similar manner and timing as they currently access the existing substation, which is on average one trip per week unless there are outage or operational issues. The substation will be an uncrewed facility. No additional vehicular traffic is anticipated.

Air Quality: The Hobart II Substation will not adversely affect air quality, either locally or long-range. The potential for fugitive dust and for emissions from equipment associated with construction activities at the Hobart II Substation will be mitigated as noted under the "Construction" subsection above.

Electric and Magnetic Fields: Gradient Corporation performed an independent electric and magnetic Fields ("EMF") assessment covering all elements of the proposed underground 115-kV project, including the proposed Hobart II Substation and Weymouth Tap Station. The "Magnetic Field Modeling Analysis for the Hingham Electrical Infrastructure Reliability Project (HEIRP)" is provided as Appendix 5 in the accompanying Section 69J Petition. The proposed Hobart II Substation will have GIS, which will allow the conductors within the proposed substation to be placed closer together than for AIS, enhancing the rapid drop-off of Magnetic Field ("MF") levels

with distance away from the equipment. It is well-established that, for the types of electrical equipment present in the proposed Substation (e.g., aboveground buswork, future transformer, future switchgear), where conductors are arranged in close proximity to each other, that EMF levels decrease rapidly to low levels inside the fence line; and the strongest fields near the perimeter fence are expected to be associated with the transmission and distribution lines entering/exiting the station (*IEEE Guide for the Design, Construction, and Operation of Electric Power Substations for Community Acceptance and Environmental Compatibility*, published by Institute of Electrical and Electronics Engineers, Inc. [IEEE], 2014). The Substation will not abut any residential properties (note that the closest residential property is approximately 400 feet away, and is in closer proximity to the existing Hobart Substation). As a result, it is expected that MFs outside the fence lines of the new Substation will be dominated by MFs associated with the Project's underground 115-kV transmission line and other transmission or distribution lines entering/exiting the stations rather than equipment within the fence lines.

Areas of Critical Environmental Concern (“ACEC”) or Outstanding Resource Waters (“ORW”): The Weymouth Back River ACEC includes More-Brewer Park, which is to the north of Hobart Street from the transfer station, and Bouve Pond and Cranberry Pond Conservation Area, to the west of the transfer station. The Hobart II Substation will not impact ACEC or ORWs.

Cultural Resources: Based on review of available records, no inventoried archaeological sites or historic properties on the Federal or State Register of Historic Places or the Massachusetts Historical Commission’s Inventory of the Historic and Archaeological Assets of the Commonwealth are located on, or immediately adjacent to the Hobart II Substation Site. As there are sites in proximity, HMLP is coordinating with the Massachusetts Historical Commission (“MHC”) to conduct field investigations on previously undeveloped portions of the substation site

and will continue to coordinate with MHC on the results of this investigation. No impact to any historic or archaeological feature is anticipated in association with Project construction or operation.

Flood Zones: Based on the National Flood Insurance Rate Map, Panel 82, Map Number 25023C0082J, revised July 17, 2022, the new substation site is not located within a designated Flood Zone. Construction and operation of the Hobart II Substation would not be expected to exacerbate local flooding as on-site stormwater management systems will be installed to control stormwater runoff from new impervious surfaces on-site.

Protected Species and Habitats: The Massachusetts Natural Heritage and Endangered Species Program (“NHESP”) Atlas, 15th Edition, effective August 1, 2021, MassGIS online mapping (data August 2021) were consulted to identify protected species and habitats. According to these sources, the substation site is not located within designated Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife. Furthermore, no certified or potential vernal pools are present in the site. Therefore, the substation project will not require review pursuant to the Massachusetts Endangered Species Act.

Hingham Informal Process – On April 12, 2024, HMLP submitted a detailed package of design information for its proposed Hobart II Substation to the Hingham Planning Board and Zoning Board of Appeals as part of an informal review process to be undertaken by the Boards. This information was posted on the Town’s website, and was made available through a link on HMLP’s project website. At its June 4, 2024 joint meeting, the Hingham Planning Board and Zoning Board of Appeals reviewed the Project, accepted public comment, indicated no opposition to the proposal, and voted to recommend that the Select Board consider a series of conditions regarding the proposed substation connection with the formal transfer of the custody and control

of the substation parcel to HMLP. These recommended conditions are provided as Exhibit G. HMLP intends to construct the proposed substation consistent with the Boards' recommended conditions.

Summary: Based upon the above, the environmental impacts associated with the proposed Hobart II substation are minor and/or temporary in nature and will be minimized to the maximum extent possible.

E. Potential Environmental Impacts – Tap Station (Weymouth)

Eversource and HMLP have conducted detailed analyses of the environmental impacts of the proposed Tap Station, identified those impacts, and proposed measures to minimize impacts associated with the construction and operation of the Tap Station. Comprehensive information regarding the nature of environmental impacts potentially associated with the Tap Station, and methods of avoidance and minimization of impacts are set forth below.

Construction: Construction of the Tap Station is expected to last about 18 months and will involve clearing and grubbing in areas to be graded, upgrading the existing gravel access road to support construction equipment, excavation, earthwork and sub-grade preparation, the installation of AIS, construction of an electrical control enclosure, installation of security fencing, spreading of crushed stone within the security fence line, installation of two transition structures and one tangent pole, installation of stormwater management BMPs, construction of associated gravel parking areas and driveways, and installation of vegetated screening.

Construction hours will be developed through coordination with the Town of Weymouth. All construction will be performed in a manner that limits the impact to the area to the maximum extent practical. Sound levels from typical construction equipment that would be used during construction range from 60 dBA to 90 dBA at a distance of 50 feet from the construction activity.

Some work tasks, once started, may require continuous operation until completion and may need to be performed on a limited basis outside of normal work hours, including Sundays and holidays.

Throughout all the phases of construction, Eversource and its contractors will follow the procedures outlined in Eversource’s Construction & Maintenance Environmental Requirements Best Management Practices Manual for Massachusetts and Connecticut (April 2022) (“BMP Manual”). BMPs will be implemented related to dust and air quality in and around the active construction zone, including vehicle track pad at the construction site entrance, use of water trucks with misters as needed, and regular street sweeping.

To minimize air emissions from equipment operation, Eversource will direct its contractors to retrofit any diesel-powered, non-road construction equipment rated 50 horsepower or above, with an engine that is not certified to USEPA Tier 4 standards and that will be used for 30 days or more over the course of the Project, with USEPA-verified (or equivalent) emission control devices (e.g., oxidation catalysts or other comparable technologies). Eversource exclusively uses ultra-low-sulfur diesel (“ULSD”) fuel in its own diesel-powered construction equipment and will require its contractors to do the same for the Project. ULSD has a maximum sulfur content of 15 parts per million compared to 500 parts per million for low-sulfur diesel fuel (a 97 percent reduction). Eversource and its contractors will comply with state law (G.L. c. 90, § 16A) and MassDEP regulations (310 CMR 7.11 (1)(b)), which limit vehicle idling to no more than five minutes except for vehicles being serviced, vehicles making deliveries that need to keep their engines running, and vehicles that need to run their engines to operate accessories.

Land Use: The proposed Weymouth Tap Station is located on an approximately 11.6-acre parcel of Eversource-owned property within an existing transmission corridor. The landscape consists of various sloping topography and areas of exposed surficial ledge. An Eversource

transmission ROW, which currently includes two transmission lines and access roads, occupies approximately half of the site. The vegetation within this ROW is maintained in compliance with Eversource's Transmission Vegetation Management Plan. The remainder of the site is populated with a mixed hardwood forest.

The Tap Station Site is bordered by additional Eversource transmission facilities, the Connell Memorial Rink and Pool, residences, undeveloped land owned by National Grid and Broad Street. The total area of land disturbance associated with the Tap Station would be approximately 2.5 acres. Nearby land uses are predominantly single-family residential, with some industrial and recreational uses. A church, Crossroads Worship Center, is located southeast of the site, across Broad Street.

The ROW will continue to be used for electric transmission purposes. Upon completion of construction, the site will be landscaped in a manner appropriate to the surroundings/neighborhood.

Wetlands and Waterbodies: The proposed Weymouth Tap Station is located within an existing Eversource transmission corridor. Wetland resource areas were delineated on August 2, 2022. Wetland boundaries were established in accordance with the provisions of the Massachusetts Wetlands Protection Act, the Weymouth Wetlands Protection Ordinance (Chapter 7, Section 301, Weymouth Code of Ordinances) and its implementing regulations, and the United States Army Corps of Engineers methodology based on the plant community, soils, hydrology, and other contributing factors, including topography. Vegetation removal is proposed within the outer 100-feet of the 200-foot Riverfront Area to an unnamed waterway located to the north and east of the site. The impact of the proposed vegetation removal within the 200-foot Riverfront Area is limited to approximately 4,000 sf. This impact is unavoidable to provide for a safe and

secure perimeter to the Tap Station facility. In the Riverfront Area, except where an access corridor is proposed, selective tree trimming and removal will occur to meet safety and security standards. Low-growing vegetation will be retained within the Riverfront Area. A Notice of Intent will be filed with the Weymouth Conservation Commission requesting an Order of Conditions for this work.

Visual: The proposed Tap Station will be located along the central-eastern portion of the property. The portion of the site where the Tap Station is proposed is currently forested and will require removal of trees within the work area. The Tap Station will be visible from the adjacent Connell Memorial Rink and Pool and its access road, with the access road partially located in the existing Eversource transmission ROW. The Tap Station includes a structure to house electrical control and relay panels and AIS. The tallest structures within the Tap Station site are four (4) shielding masts at 85 feet each. The Tap Station will be surrounded by a 10-foot-tall chain link fence. Three poles are proposed on the ROW adjacent to the transmission lines for the tap. These new poles will be consistent with the existing infrastructure within the ROW. The Tap Station equipment is proposed to be set back approximately 550 feet from Broad Street, so visual impacts along Broad Street will be limited. The closest residence to the Tap Station is approximately 405 feet and visual impacts to this residence (and other nearby residences) are expected to be minimal as the Tap Station is on the opposite side of the transmission ROW from the residence. As mentioned above, Eversource will provide landscaping and other visual mitigation and screening adjacent to the Tap Station to minimize visual impacts. Eversource will have preliminary conversations with Weymouth officials, abutters and community members regarding such landscaping and will evaluate input as the final landscaping plan is designed.

Noise: Work to construct the Tap Station will take place over an approximately 18-month period. Construction activities will include site preparation, including rock removal and grading, and the installation of new poles, electrical equipment, support structures and foundations. During this time, nearby residences may be affected by temporary elevated noise levels associated with a typical construction site. Construction will comply with the MassDEP regulations related to noise. To further mitigate construction noise at nearby residences, Eversource plans to:

- Require well-maintained equipment with functioning mufflers
- Require strict compliance with MassDEP's Anti-Equipment Idling regulations
- Operate stationary noise generating equipment away from nearby residences
- Comply with municipal restrictions on construction hours when feasible
- Work with the Town to schedule construction outside these hours where necessary

Eversource anticipates that these measures will appropriately minimize construction-related noise impacts in the areas near the Tap Station site. As no transformer is proposed at the Tap Sation, no operational noise is anticipated.

Stormwater Management: A stormwater management system will be developed to treat both the quality and the quantity of stormwater discharge from the site. The stormwater BMPs will include a sediment forebay and a stormwater basin to address peak runoff from the proposed Tap Station.

Air Quality: The Tap Station will not adversely affect air quality, either locally or long-range. The potential for fugitive dust and for emissions from equipment associated with construction activities at the Weymouth Tap Station will be mitigated as noted under the "Construction" subsection above.

Electric and Magnetic Fields: Gradient Corporation performed an independent EMF assessment covering all elements of the proposed underground 115-kV project, including the proposed Hobart II Substation and Weymouth Tap Station. The EMF assessment is focused on aboveground 60-Hertz (Hz) alternating current (AC) magnetic fields (MFs) that will be generated by the underground 115-kV circuit because there are no aboveground electric fields for underground transmissions lines due to their shielding by the metallic shield covering the conductor insulation, the duct banks, and the intervening earth. AIS is to be used at the new Tap Station. MFs will diminish rapidly with distance from the tap station equipment and the Tap Station will not abut any residential properties (note that the closest residential properties on Broad Street, over 400 feet away, are in closer proximity to the Project underground 115-kV transmission line than the Tap Station). The Project underground line would thus be expected to be a larger potential source of MFs at these properties than the more distant Tap Station. The closest residences on Roosevelt Road are on the other side of the Eversource ROW from the Tap Station, so that the Tap Station would be expected to be a negligible source of MFs at these properties. In addition, engineering design diagrams indicate that the closest switchgear to the paved parking lot at the Connell Rink and Pool is to be located more than 50 feet from the parking lot edge, such that MFs from the tap station equipment will have diminished to minimal levels. It is well-established that, for the types of electrical equipment present in the proposed Tap Station (*e.g.*, aboveground buswork, switchgear), where conductors are arranged in close proximity to each other, that EMF levels decrease rapidly to low levels inside the fence line; and the strongest fields near the perimeter fence will be from the transmission and distribution lines entering/exiting the station (IEEE, 2014). As a result, it is expected that MFs outside the fence lines of the new Tap Station will be dominated by MFs associated with the Project's underground 115-kV transmission

line and other transmission or distribution lines entering/exiting the stations rather than equipment within the fence lines.

Traffic: The proposed Tap Station is located off public roads, and traffic impacts associated with Tap Station construction are expected to be minor and temporary in nature. Access to the Tap Station site will be through the existing access road off of Broad Street, onto the gravel access road that runs parallel to the transmission lines in the Eversource ROW as well as through a new access road off of the Connell Memorial Rink and Pool driveway, which is on Eversource property. Eversource will coordinate construction activities with the adjacent Connell Memorial Rink and Pool so as to minimize impact on the facility operations.

After construction, the Project will not generate significant traffic. The Tap Station will not be a manned facility and Eversource staff will access the Tap Station only as needed.

ACECs and ORWs: There are no ACECs or ORWs in proximity to the Tap Station Site.

Cultural Resources: Based on review of available records, no inventoried archaeological sites or historic properties on the Federal or State Register of Historic Places or the Massachusetts Historical Commission's Inventory of the Historic and Archaeological Assets of the Commonwealth are located on the Tap Station Site. As there are sites in proximity, the Petitioners are coordinating with the MHC to conduct field investigations on previously undeveloped portions of the site and will continue to coordinate with MHC on the results of this investigation. No impact to any historic or archaeological feature is anticipated in association with Tap Station construction or operation.

Flood Zones: Based on the National Flood Insurance Rate Map, Panel 229, Map Number 25021C0229E, revised July 17, 2012, and the National Flood Insurance Rate Map, Panel 227, Map Number 25021C0227F, revised June 9, 2014, the Tap Station Site is not located within a

designated Flood Zone. Construction and operation of the Tap Station would not be expected to exacerbate local flooding as on-site stormwater management systems will be installed to control stormwater runoff from new impervious surfaces on-site.

Protected Species and Habitats: The Massachusetts Natural Heritage and Endangered Species Program (“NHESP”) Atlas, 15th Edition, effective August 21, 2021, MassGIS online mapping (data updated August 2021) were consulted. According to these sources, the Tap Station site is not located within designated Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife. Furthermore, no certified or potential vernal pools are present in the site. Therefore, the Tap Station project will not require review pursuant to the Massachusetts Endangered Species Act.

Summary: Based upon the above, the environmental impacts associated with the proposed Tap Station are minor and/or temporary in nature and will be minimized to the maximum extent possible.

VII. THE PROJECT REQUIRES INDIVIDUAL ZONING EXEMPTIONS

A. Standard of Review

In determining whether an exemption from a particular provision of a zoning bylaw is “required,” the Department looks to whether the exemption is necessary in order to allow construction or operation of the petitioner’s project as proposed. *See Park City Wind* at 177; *Beverly-Salem* at 120; *Sudbury-Hudson* at 196; *Vineyard Wind* at 139.

It is a petitioner’s burden to identify the individual zoning provisions applicable to the project and then to establish on the record that exemption from each of those provisions is required:

The Company is both in a better position to identify its needs, and has the responsibility to fully plead its own case . . . The Department fully expects that, henceforth, all public service corporations seeking exemptions under c. 40A, § 3 will identify fully and in a timely manner all exemptions that are necessary for the

corporation to proceed with its proposed activities, so that the Department is provided ample opportunity to investigate the need for the required exemptions.

New York Cellular Geographic Service Area, Inc., D.P.U. 94-44, at 18 (1995); *Park City Wind* at 177-178; *Mid-Cape Reliability Project* at 102-103; *Vineyard Wind* at 139; *Beverly-Salem* at 120-121.

The Siting Board and Department favor the resolution of local issues at the local level when possible to reduce concern regarding any intrusion on home rule. The Department and Siting Board have expressed that the most effective approach for doing so is for a petitioner to consult with local officials regarding its project before seeking zoning exemptions pursuant to G.L. c. 40A, § 3. See *Park City Wind* at 169-170; *Sudbury-Hudson* at 193; *Vineyard Wind* at 132; *Russell Biomass LLC and Western Massachusetts Electric Company*, EFSB 07-4/D.P.U. 07-35/07-36, at 61-62 (2009) (“*Russell Biomass*”). Thus, petitioners are encouraged to consult with local officials prior to seeking zoning exemptions from the Department under G.L. c. 40A, § 3. See *Sudbury-Hudson* at 193; *Vineyard Wind* at 132; *Russell Biomass* at 60-63.

B. Individual Exemptions Required for Proposed Substation- Hingham

As described in more detail below, the Hobart II Substation requires relief from the Hingham Zoning By-law in several respects. The Project is needed in the near-term in order to provide reliable service to Hingham. Indeed, under current conditions, the Town of Hingham is at risk of experiencing an extended outage under certain N-1 and N-1-1 contingencies. Thus, HMLP is seeking zoning relief from the Department in order to allow for the timely, efficient and consistent construction of the Project. HMLP has worked with the Town, including submitting the plans for the proposed Hobart II Substation to the Hingham Planning Board and Zoning Board of Appeals as part of an informal review process that included the filing of a submission package on April 12, 2024 and HMLP’s participation in a joint public meeting on June 4, 2024 where the

Boards reviewed the Project, accepted public comment, indicated no opposition to the proposal and voted to recommend that the Select Board consider a series of conditions with respect to the transfer of custody and control of the substation parcel. HMLP intends to construct the proposed substation consistent with the Boards' recommended conditions. See Exhibit G.

According to the Hingham Zoning Map, the Hobart II Substation site is located in an Official and Open Space zoning district and is in the Personal Wireless Services Overlay zoning district. Based on Section III-A – Schedule of Uses, public utility buildings and structures are permitted in the Official & Open Space zoning district through approval of a Special Permit A1. For the reasons set forth below, HMLP seeks an exemption from the requirement that it obtain a Special Permit A1.

In addition to requiring a Special Permit A1, an additional special permit would be required with respect to parking. Section V-A of the Hingham Zoning By-law establishes minimum required off-street parking spaces. HMLP's proposed use is not listed. For uses not specifically covered by the Zoning By-law, parking requirements shall be determined by Special Permit A3. The Substation is uncrewed, and vehicles are parked only intermittently. No marked parking spots are depicted on the plan. A Special Permit A3 would be needed to determine the required number of parking spaces. HMLP seeks an exemption from any parking requirements per Section V-A.

Moreover, based on HMLP's review of the Hingham Zoning By-law, the proposed substation would require variances as the Hobart II Substation does not meet all dimensional requirements as set forth below.

Front Yard Setback. Section IV-A Schedule of Dimensional Requirements requires a minimum front yard setback in the Official and Open Space Zoning District of 40 feet. The proposed front yard setback is 6 feet. HMLP would require a variance from the front yard setback

requirement in Section IV-A Schedule of Dimensional Requirements of the Hingham Zoning By-law and therefore is seeking an exemption.

Minimum Landscaping Requirements. Section IV-B Special Requirements to Schedule of Dimensional Requirements for the Official and Open Space district includes requirements for a green or landscaped strip not less than 15 feet wide along the entire street frontage of a lot, and a green yard space of not less than 20 feet in width along each side lot line and rear lot line. As these landscaping requirements cannot be met by the Project, a variance from these provisions of the Hingham Zoning By-law is required. HMLP seeks an exemption from the minimum landscaping requirements Section IV-B Special Requirements to Schedule of Dimensional Requirements for the Official and Open Space district.

With respect to the front yard setback and minimum landscaping provisions of the by-law, HMLP would require variances from those requirements. In order to grant a variance, the Hingham Zoning Board of Appeals would need to find all of the following in accordance with G.L. c. 40A, § 10: (a) circumstances exist relating to soil conditions, shape or topography of the particular parcel or structure that do not affect generally the zoning district in which the parcel or structure is located; (b) a literal enforcement of the provisions of the bylaw would involve substantial hardship to the applicant and there is a nexus between the special circumstance and the hardship; and (c) the relief requested may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw. (Section I, subsection D of the Hingham Zoning By-law tracks this language.) The courts have held that no one is entitled to a variance, and that they are to be granted sparingly. See *Damaskos v. Board of Appeal of Boston*, 359 Mass. 55, 61 (1971). As a result, variances can be notoriously difficult to obtain. By virtue of the statutory requirements, while the grant of a variance would

require detailed findings by the Zoning Board of Appeals, less would be required for a denial. See *Gamache v. Acushnet*, 14 Mass.App.Ct. 215, 220 (1982).

In HMLP’s case, it would be difficult, if not impossible, to demonstrate the existence of unique conditions relating to soil conditions, shape or topography of the Hobart II parcel that generally do not affect the rest of the Official and Open Space district. Further, it would be difficult to demonstrate the nexus between HMLP’s hardship and the special circumstance where, as here, HMLP chose the site knowing it could not meet certain setback and landscape requirements. Even though HMLP can establish there is a scarcity of suitable sites in Hingham and the price of those sites would be prohibitive, these factors would be insufficient to satisfy the hardship requirement. The courts have found “financial hardship” insufficient to satisfy the “substantial hardship” requirement of G.L c. 40A, § 10. *See, e.g., McNeely v. Board of Appeal of Boston*, 358 Mass. 94, 101 (1970).

While it may be possible for HMLP to demonstrate the third criteria (*i.e.*, no substantial harm to public good and no derogation of the intent of the bylaw), failure to meet even one of the criteria would doom the grant of a variance. *See Kirkwood v Board of Appeals of Rockport*, 17 Mass.App.Ct 423, 428 (1984). Moreover, variances are a legally disfavored form of relief. *See, e.g., Cornell v. Board of Appeals of Dracut*, 453 Mass. 888, 895 (2009); *Planning Board of Nantucket v. Board of Appeals of Nantucket*, 15 Mass.App.Ct 733, 738 (1983). Finally, even if granted, variances are susceptible to legal challenge and the courts undertake review of variances on a *de novo* basis, and would need to make independent findings of fact. *See, e.g., Kirkwood, supra* at 426-427. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process

and appeals therefrom, HMLP seeks an exemption from both the front yard setback and minimum landscaping requirements.

Further, with respect to Special Permit A1 (public utility buildings and structures in the Official & Open Space zoning district) and Special Permit A3 (parking), HMLP notes that some of the standards for granting a special permit are subjective, the grant of a special permit is discretionary, and a special permit could contain burdensome or restrictive conditions that could impede HMLP from constructing the proposed Hobart II Substation in accordance with applicable state and industry standards. Moreover, the process of obtaining a permit, as well as an appeal of the Special Permit, if granted, could further delay the construction and operation of the proposed Hobart II Substation. Such delay would be contrary to the public interest because timely construction of the Project is necessary to ensure reliable service. Because of the legal uncertainty in obtaining special permits, the potential for burdensome or restrictive conditions, the possibility of delay, and the burden and undue expense associated with the permitting process and appeals therefrom, HMLP seeks an exemption from the special permit requirements of the Hingham zoning ordinance.

Site Plan Review Requirements: Per Section I-I of the Hingham Zoning By-law, Major site plan review is required for Special Permit A2 and A3 projects, or where land disturbance or drainage patterns over a combined area equal to or greater than 20,000 sf OR land disturbance or drainage patterns over a combined area equal to or greater than 5,000 sf where slopes exceed 10%; or a larger common plan of development disturbing one acre or more in the aggregate. Section I-I.2(a)(i)-(iii).

Because the total land disturbance associated with the proposed Hobart II Substation will be 31,000 sf, HMLP would be subject to Major Site Plan Review.

The goals of Major Site Plan Review are:

- To locate the project to preserve and enhance natural features on the site
- Avoid disturbances of environmentally sensitive areas
- Minimize adverse impacts to adjoining properties
- Minimize alterations to natural features of the site and preserve and enhance scenic points, historic buildings and similar community assets that add value and attractiveness to the Town.
- Site and building design to minimize disturbance to topography to preserve drainage patterns on site.

The performance standards include:

- Minimize disturbance to natural topography and preserve drainage patterns
- Place facilities to not detract from scenic qualities of site and blend with natural landscape
- The scale of buildings should minimize departure from scale and character of buildings in vicinity
- Preserve existing vegetation and trees, adopt mitigation plan for trees and any clearing to be replaced with native vegetation
- Limit clearing with development envelope
- Finished grade to 3:1 slope and match existing contours to greatest extent possible
- Adopt stormwater management controls per MA law
- Utilities must be adequate
- Proposed development must be designed with a forecast for next 7 years to address minimization of hazards to public health due to traffic, provide access for emergency vehicles, pedestrians and other vehicles, driveways to be designed meet standards in zoning code, assure safe circulation within the site, provide for acceptable site distances.
- Lighting plans must avoid interfering with enjoyment of property, avoid lighting trespass and must shield adjoining properties

The Planning Board will grant approval if it finds:

- The proposed project will not adversely affect the health, safety and welfare of current or future occupants, neighboring properties or users of adjoining streets and the Town generally.
- The project meets all design and performance standards, or if impractical to meet one or more of such standards, a waiver will not adversely impact the foregoing interests.

Site Plan Review is a lengthy, iterative process and because substations are required to comply with numerous regulations such as the National Electric Safety Code (“NESC”),

complying with several of the design and performance standards identified above would be difficult, if not impossible, where those standards conflict with NESC requirements. It would be difficult to preserve and enhance natural features of the Hobart II Substation footprint, given the necessity of installing a retaining wall, which would also make it difficult to blend into surrounding natural landscape and to replace removed trees and shrubs, especially in light of the surrounding ongoing transfer station activities. Many provisions of Site Plan Review are simply inapplicable here, where pedestrians will not have access to the substation, members of the public will not be visiting the substation, there are no parking needs and the substation will not generate traffic. Further, the Hingham Planning Board and Zoning Board of Appeals reviewed the Substation as part of an informal process and voted to recommend conditions for the Select Board to consider in connection with their transfer of the custody and control of the Substation parcel to HMLP as noted below.

Both the Hingham Planning Board and Zoning Board of Appeals reviewed the Hobart II Substation design through an informal review process. On June 4, 2024, the Boards reviewed the Project, accepted public comment, indicated no opposition to the proposed substation, and voted to recommend conditions for the Select Board to consider in connection with their transfer of the custody and control of the Substation parcel to HMLP. The Boards' recommendations are provided as Exhibit G. HMLP intends to comply with the Boards' recommended conditions.

TABLE 2

Zoning Relief Requested from Hingham Zoning By-law

Zoning Provision	Criteria	Proposed	Relief Required
Section III-A Schedule of Use	Public utility uses are only permitted pursuant to criteria for Special Permit A1.	Public Utility Use requires Special Permit A1.	Zoning exemption will be required in lieu of Special Permit A1.
Section I-I Site Plan Review	Major Site Plan Review required for land disturbance greater than 20,000 sf.	Approximately 31,000 sf of disturbance requires Major Site Plan Review.	Zoning exemption will be required in lieu of Major Site Plan Review.
Section IV-A Schedule of Dimensional Requirements	Minimum Front Yard Setback is 40 feet.	Proposed Front Yard Setback is 6 feet	Variance from 40-foot setback requirement; zoning exemption will be required.
Section IV-B Special Requirements to Schedule of Dimensional Requirements for the Official and Open Space District	A minimum of 15% of the area of each lot shall not be built upon, paved or parked upon, and shall be maintained either in its natural state or landscaped. Along the entire street frontage of each lot a green or landscaped strip not less than 15' wide shall be maintained in its natural state or landscaped with grass, trees and shrubs, not paved except for driveways, not parked upon and not built upon except for signs. The required 15% may include the 15' green strip.	The project abuts Old Hobart Road. The building and retaining wall extend to within 6 feet of the Old Hobart Road right of way.	The proposed project would need a variance from the requirement of 15' wide green or landscaped strip along the frontage; zoning exemption will be required.

TABLE 2

Zoning Relief Requested from Hingham Zoning By-law

Zoning Provision	Criteria	Proposed	Relief Required
Section IV-B Special Requirements to Schedule of Dimensional Requirements for the Official and Open Space district	A green yard space not less than twenty (20) feet wide shall be maintained open and green with grass, bushes, flowers or trees or any combination of them, along the entire length of each side lot line or rear lot line of such a lot and (except for entrance and exit driveways) along the entire street frontage of such lot, and such yard space shall not be built on nor paved nor used for automobile parking. Not less than 80% of the land area of such a lot shall remain open and unbuilt on, but such open space may be used for automobile off-street parking, driveways, sidewalks and store service yards, except that such use shall not be permitted in any part of the 20' wide green perimeter strip above specified. Notwithstanding the foregoing, a green yard space not less than fifty (50) feet wide shall be maintained open and green with grass, bushes, flowers, trees, or in an undisturbed natural condition, or any combination of the foregoing, along the entire length of each side lot line and rear lot line of such lot where such side lot line or rear lot line abuts a Residence A or Residence B or Residence C District.	A green planted yard space is not proposed.	Variance from 20-foot green yard requirement; zoning exemption will be required.
Section V-A. Off-Street Parking Requirements	For uses not specifically covered by the Zoning By-law, parking requirements shall be determined by Special Permit A3.	No parking spaces are proposed.	Zoning exemption will be required in lieu of Special Permit A3.

C. Individual Exemptions Required for Proposed Tap Station - Weymouth

As described in more detail below, in order to construct and operate the proposed Tap Station, relief from the Weymouth Zoning Ordinance is required in several respects. The Tap Station is needed in the near-term in order for HMLP to provide reliable service to customers in Hingham. Further, the Tap Station is needed to ensure adequate capacity for future uses as Hingham pursues increased electrification to address climate change.

Eversource and HMLP met with the Weymouth Planning Director on August 31, 2022 to discuss Eversource's plan to seek individual and comprehensive zoning exemptions for the construction and operation of the Tap Station. After consultation with the Weymouth Inspector of Buildings, the Weymouth Planning Director supported Eversource's plan to seek exemptions from the Department in lieu of seeking local zoning relief. Thus, Eversource is seeking exemptions from the Department in order to allow for the timely, efficient, and consistent construction of the Project.

Based on Eversource's review of the Weymouth Zoning Ordinance, the Tap Station would require municipal zoning relief as set forth below.

Uses. According to the Weymouth Zoning Map, the Project Site is located in Resident District R-1. Per Article IV, § 120-11 of the Town of Weymouth's Zoning Ordinance, no building or premises shall be erected, altered or used for any purpose in the Resident District R-1 except detached one family dwellings and municipal uses.

Thus, the Tap Station is a prohibited use in the Resident District R-1. Article IV, § 120-12.1 and 13 list uses allowed by Special Permit from the Planning Board and Zoning Board of

Appeals, respectively. Public utility use is not a use permitted by Special Permit within the R-1 District.

Significantly, Weymouth's Zoning Ordinance does not authorize the Board of Appeals to grant use variances. Per Section 120-119A.(3), “[n]o variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.” Because there is no avenue to seek local zoning relief for the proposed use, an exemption from the use prohibition is per se required for the Tap Station and Eversource seeks exemptions from Article IV, § 120-11, § 120-12.1 and 13, § 120-119A.(3) of the Weymouth Zoning Ordinance.

Height. Article XV and Table 1: Schedule of District Regulations provides a maximum height of 35 feet, or 2½ stories, whichever is lesser, in the R1 District. All proposed structures are below 35 feet with the exception of four shielding masts that will be approximately 85 feet in height. To authorize the height of the masts locally, Eversource would need to seek variances from the maximum height limitation.

To grant a variance from the height limitation for the shielding masts, the Weymouth Zoning Board of Appeals would need to find the following in accordance with G.L. c. 40A, § 10:

- (a) circumstances exist relating to soil conditions, shape or topography of the particular parcel or structure that do not affect generally the zoning district in which the parcel or structure is located;
- (b) a literal enforcement of the provisions of the bylaw would involve substantial hardship to the applicant and there is a nexus between the special circumstance and the hardship; and
- (c) the relief requested may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

It is difficult, if not impossible, to demonstrate the existence of unique conditions relating to soil conditions, shape or topography of a particular parcel of land or structure. Moreover, variances are a legally disfavored form of

relief and, even if granted, are susceptible to challenge.⁹ Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from the maximum height limitation in Article XV and Table 1: Schedule of District Regulations of the Weymouth Zoning Ordinance.

Parking. Section 120-74 of the Weymouth Zoning Ordinance establishes minimum required off-street parking spaces. As the proposed use is not listed, the use would fall under Section 120-74R, which provides that reasonable off-street parking requirements for buildings and uses for which the minimum required parking is not provided shall be determined in each case by the Inspector of Buildings. Thus, it is within the Building Inspector's discretion to determine the number of parking spaces required for the Tap Station. The Tap Station is uncrewed, and parking of Company vehicles will only be needed for periodic inspections. While no individual parking spots are depicted on the plan for the Tap Station, the Tap Station Site is designed to accommodate parking for up to six (6) vehicles. A variance would be required from Section 120-74 to ensure that minimum required parking requirements are not imposed by the Inspector of Buildings for the Tap Station, where space for six vehicles is already proposed. As noted above, it is difficult to meet the requirements for a variance, and the grant of variances is susceptible to challenge. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from any parking requirements that could be imposed by the Building Inspector per Section 120-74.

⁹ As discussed in Section IV.B., *supra*, pp. 39-41, variances are a disfavored form of relief.

Signs. Section 120-64.1 of the Weymouth Zoning Ordinance regulates signs and prescribes the types, number and size of signs in the R1 zoning district. Eversource proposes the following three types of signs on the Tap Station perimeter fence:

- No Trespassing Signs (approximate size: 12" x 9")
- Contact Information Signs (approximate size: 14" x 10")
- Danger Signs (approximate size: 14" x 10")

These types of signs are not explicitly allowed in the Resident District R1 and, accordingly, variances would be needed to authorize them to be placed on the perimeter fence. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from Section 120-64.1.

Earth Removal. Section 120-80 of the Weymouth Zoning Ordinance requires a permit from the Board of Zoning Appeals for removal of earth materials. Furthermore, the removal of earth materials is subject to restrictive covenants of the Board. The Inspector of Buildings is authorized to issue a permit for the removal from the site of earth and may require a suitable bond, if deemed necessary, where the amount of material to be removed is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building or road or other facility being built in accordance with a permit issued or in accordance with an approved plan, provided that there is reasonable assurance that the construction will be completed. As earth material will be removed during construction, Eversource seeks an exemption from any permit or bond the Building Inspector or the Board of Zoning Appeals may impose for removal of earth materials even if incidental to construction.

Site Plan Review. Articles XXIVA and XXVA of the Weymouth Zoning Ordinance provide that the Weymouth Inspector of Buildings shall not issue a building permit until and unless

the Weymouth Director of Planning and Community Development issues a decision of review consisting of all findings and pertaining to review of the site plan. Thereafter, the Weymouth Planning Board has the authority to approve the site plan. Site plan review criteria include: (1) protection of adjoining premises and the general neighborhood from any substantially adverse impacts created by the proposed development; (2) convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements; (3) adequacy of the methods of providing for municipal facilities and essential services in connection with the development; and (4) provisions for off-street loading and unloading of vehicles incidental to the servicing of the development. The Weymouth Zoning Ordinance does not provide any guidance for the application of these criteria to the site plan. Moreover, the Company must have the discretion to design the Tap Station and station layout in a manner that is consistent with established utility standards in order to ensure its reliable operation; such technical engineering and electrical issues are typically beyond the general scope of local site plan review. Site plan approval can be conditioned and could result in burdensome or restrictive conditions being placed on the construction of the Tap Station. Notably, the Weymouth Zoning Ordinance does not explicitly require site plan review in Resident District R1, likely because the only as-of-right uses are single family residences and municipal uses. Because the Tap Station is a prohibited use in the zoning district, and because nothing in the Weymouth Zoning Ordinance would prohibit the site plan review authorities from requiring it for the Tap Station, Eversource is seeking an exemption from any requirement that may be imposed by the Weymouth Inspector of Buildings, Director of Planning and Community Development or Planning Board to obtain site plan approval for the Tap Station.

To avoid vagueness and subjectivity in the Weymouth Zoning Ordinance as applied to the Project and the need to seek variances and other zoning relief, Eversource seeks the following exemptions in order to construct, operate and maintain the Project in Weymouth:

TABLE 3
Zoning Relief Requested from Weymouth Zoning Ordinance

Zoning Provision	Criteria	Proposed	Relief Required
§120-11 Permitted Uses	Permitted uses in the Resident District R1 include only: (1) detached one-family dwellings; and (2) municipal uses.	Substation Use – not permitted	Use variances explicitly prohibited per § 120-119A.(3). Zoning exemption will be per se required.
Article XV and Table 1: Schedule of District Regulations	Maximum Height: 35 ft, 2.5 stories	Four masts at 85 feet	Variances are needed for four shielding masts proposed at 85 feet. Zoning exemptions required from maximum height requirement.
§120-64.1 Signs	The types of signs that must be affixed to the Tap Station fence are not explicitly allowed in the Resident District R1.	Eversource will affix the following three types of signs on the perimeter fence: No Trespassing Signs (approximate size: 12" x 9") Contact Information Signs (approximate size: 14" x 10") Danger Signs (approximate size: 14" x 10")	Variances are needed for signs placed on perimeter fence. Zoning exemptions required from any prohibition of required signage.
§120-74 Required Minimum Parking Spaces	<u>R.</u> Unlisted requirements. Reasonable off-street parking requirements for buildings and uses not listed in this section shall be determined in each case by the Inspector of Buildings.	This is a requirement to be determined by the Building Inspector. Plan does not show any parking spots, but station can accommodate parking for approximately 6 cars.	Variance is needed from possible requirement to have dedicated parking spots/more than six parking spots on site. Zoning exemption required from any parking requirements imposed by the Building Inspector.

TABLE 3
Zoning Relief Requested from Weymouth Zoning Ordinance

Zoning Provision	Criteria	Proposed	Relief Required
§ 120-80 Earth Removal	<p>§ 120-81 Permit required.</p> <p>The removal of soil, loam, sand, gravel, quarry stone or other earth material from any parcel of land by any person, firm or corporation shall be allowed only under permit from the Board of Zoning Appeals and subject to restrictive covenants of the Board.</p> <p>The Inspector of Buildings may issue permits for earth removal and may require a suitable bond, if deemed necessary, where the amount of material to be removed is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building or road or other facility being built in accordance with a permit issued or in accordance with an approved plan, provided that there is reasonable assurance that the construction will be completed.</p>	Earth material will be removed from site during construction.	Zoning exemption required for any permit or bond the Building Inspector may impose for removal of earth materials even if incidental to construction.

TABLE 3
Zoning Relief Requested from Weymouth Zoning Ordinance

Zoning Provision	Criteria	Proposed	Relief Required
Article XXVA Site Plan Review	Site plan review criteria include: (1) protection of adjoining premises and the general neighborhood from any substantially adverse impacts created by the proposed development; (2) convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements; (3) adequacy of the methods of providing for municipal facilities and essential services in connection with the development; and (4) provisions for off-street loading and unloading of vehicles incidental to the servicing of the development.	The Tap Station is a prohibited use in the Resident District R1.	While site plan review is not explicitly required in the Resident District R1, nothing in the Weymouth Zoning Ordinance prohibits the imposition of site plan review for the Tap Station. Accordingly, because the Tap Station must be designed, constructed and operated according to utility industry standards, Eversource seeks an exemption for site plan review in Article XXVA.

VIII. THE PROJECT REQUIRES COMPREHENSIVE ZONING EXEMPTIONS

The Petitioners also respectfully request comprehensive exemptions from the operation of the Hingham Zoning By-law and Weymouth Zoning Ordinance with respect to the Project. The Siting Board grants comprehensive exemptions on “a case-by-case basis where the applicant demonstrates that issuance of a comprehensive exemption could avoid substantial public harm by serving to prevent a delay in the construction and operation of the proposed use.” *See Park City Wind at 208; Beverly-Salem at 126-127; Sudbury-Hudson at 215; Vineyard Wind at 109-110.*

In order to make a determination regarding substantial public harm, the Department and the Siting Board have articulated relevant factors, including, but not limited to, whether: (1) the proposed project contributes to a reliable energy supply for the Commonwealth; (2) the project is

time-sensitive; (3) the project involves multiple municipalities that could have conflicting zoning provisions that might hinder the uniform development of a large project spanning these communities; (4) the proponent of the project has actively engaged the communities and responsible officials to discuss the applicability of local zoning provisions to the project and any local concerns; and (5) the affected communities do not oppose the issuance of the comprehensive exemption. *Park City Wind* at 208; *Mid Cape Reliability Project* at 109-110; *Sudbury-Hudson* at 215; *Vineyard Wind* at 153.

The grant of a comprehensive zoning exemption is necessary even where individual zoning exemptions are granted, as the two types of zoning exemptions serve distinct needs. An individual zoning exemption relates to specific provisions in the Hingham Zoning By-law or Weymouth Zoning Ordinance *currently* in effect, that have the potential to conflict or be inconsistent with, prevent, delay or obstruct the construction or operation of the Project. Comprehensive zoning exemptions are also necessary with regard to provisions currently in effect because zoning bylaws and ordinances are rarely written with unique energy infrastructure facilities in mind. The lack of clearly defined and specific regulation of electric infrastructure in the zoning enactments, and the vague and subjective terms and provisions of zoning ordinances and bylaws result in an imprecise, at best, application of the zoning provisions to energy infrastructure projects. Both HMLP and Eversource have interpreted the provisions of Hingham and Weymouth zoning enactments reasonably, but conservatively, to request individual zoning exemptions for all of the provisions that could conceivably be said to apply to the Project. The grant of comprehensive exemptions would remove any reasonable doubt as to the ability of the Project to move forward without violating any terms of the Hingham and Weymouth zoning enactments. Comprehensive zoning exemptions also go beyond the provisions in the current Zoning By-law and Ordinance (from

which an individual zoning exemption may be granted), to exempt the Project from any *future* zoning enactment that comes into effect that has the potential to jeopardize the Project (in the same manner described above for individual zoning exemptions). In this manner, the two types of zoning exemptions work in tandem to ensure that meritorious energy facilities like the Project are constructed as approved by the Department/Siting Board without undue delay. The very purpose of a comprehensive zoning exemption is thus to provide a mechanism for relief from local zoning that would not be available if only individual zoning exemptions were able to be secured. A comprehensive zoning exemption would also ensure the timely construction of the Project in the event that a Project design change is required.

As described herein, the Project satisfies the Department's and the Siting Board's standards for the grant of comprehensive zoning exemptions. With respect to the first two factors, as described in detail above, the Project is necessary in order to ensure system reliability, and the need for the Project is immediate given that HMLP's current system does not meet established transmission reliability standards. With respect to the third factor, the Project involves the construction of two stations in two municipalities – Hingham and Weymouth – and implicates potentially conflicting zoning provisions that might hinder the uniform and coordinated development of a complex project spanning these two communities.

With respect to the fourth factor, as discussed in Section III above, HMLP and Eversource have actively engaged the two communities and the responsible officials in Hingham and Weymouth to discuss the applicability of local zoning provisions, the need for both the individual and comprehensive zoning exemptions and HMLP's and Eversource's plans to seek exemptions from the Department. HMLP, both on its own and in conjunction with Eversource, has held multiple meetings with officials, residents and businesses in both Hingham and Weymouth.

HMLP and Eversource met with the Planning Director of Weymouth to discuss the Tap Station and the zoning process. In an email dated December 14, 2022, the Planning Director stated that he had spoken with the Weymouth Inspector of Buildings, and that “Since switching stations are not allowed in R-1 zones and Weymouth does not allow use variances, you will need to seek relief from the appropriate state board.” HMLP also met with the Hingham Planning Board and Zoning Board of Appeals. The Hingham boards and Town staff understood that HMLP would seek a zoning exemption. Moreover, community engagement in Hingham included an informal review of the Hobart II Substation by the Hingham Planning Board and Zoning Board of Appeals, in lieu of formal zoning and planning reviews, including a widely noticed joint public meeting held by those two boards on June 4, 2024. At its June 4, 2024 public meeting, the Boards received public comment, expressed no opposition to the proposed substation and voted to recommend conditions for the Select Board to consider in connection with their transfer of the custody and control of the Substation parcel to HMLP. *See* Hingham Informal Process under Section III, Community Outreach, above.

In sum, a comprehensive zoning exemption from the operation of the Hingham Zoning By-law and Weymouth Zoning Ordinance would ensure the timely construction of this important Project.

IX. PERMITS REQUIRED

To the extent that the Department grants the Joint Petition, the Petitioners anticipates that the following permits would be required to construct and operate the Project:

TABLE 4
Anticipated Permits, Reviews and Approvals

Agency	Permit, Review, or Approval	Status
Federal		
USEPA	National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit	To be filed
USEPA	NPDES Dewatering and Remediation General Permit (“DRGP”) and Best Management Practices Plan (“BMPP”)	To be filed
State		
MassDEP Bureau of Waste Site Cleanup	Utility Related Abatement Measure (“URAM”) under Massachusetts Contingency Plan (“MCP”)	To be filed; Presumptive approval 7 days after submission
MassDEP Bureau of Water Resources	WM15 Surface Water Discharge Notice of Intent for EPA NPDES CGP discharges to impaired waters	Approval upon EPA issuance of CGP discharge authorization
MassDEP Bureau of Water Resources	WM15 Surface Water Discharge Notice of Intent for EPA NPDES DRGP	Approval upon EPA issuance of DRGP discharge authorization
Massachusetts Historical Commission (“MHC”), Massachusetts Board of Underwater Archaeological Resources (“MA BUAR”) and Tribal SHPOs (G.L. c. 9 Sect. 26-27C as amended by St. 1988 Ch. 254 and Section 106)	Determination of No Adverse Effect	A Project Notification Form (“PNF”) was submitted on April 2024. HMLP is coordinating with the MHC to conduct field investigations on previously undeveloped portions of land at the Tap Station and Substation sites and will continue to coordinate with MHC on the results of this investigation.
Local		
Hingham Conservation Commission	Wetlands Order of Conditions per the MWPA and Hingham Wetlands Protection Bylaw (Article 22)	To be filed
Weymouth Conservation Commission	Wetlands Order of Conditions per the MWPA and Weymouth Wetlands Protection Ordinance (Section 7-300)	To be filed

TABLE 4
Anticipated Permits, Reviews and Approvals

Agency	Permit, Review, or Approval	Status
Weymouth DPW	Stormwater Management Permit	To be filed
Town of Hingham	Road opening permit	Contractor to file
Town of Weymouth	Road opening permit	Contractor to file

X. CONCLUSION

The Petitioners respectfully request that, pursuant to G.L. c. 40A, § 3, and after due notice and a public hearing, the Department/Siting Board determine that the construction of the proposed Hobart II Substation and Tap Station are reasonably necessary for the convenience and welfare of the public, and that regarding the respective sites in Hingham and Weymouth, the uses to be made of them, and the structures to be built and maintained thereon by HMLP and Eversource, the Project shall be individually and comprehensively exempted from the operation of the Hingham Zoning By-law and Weymouth Zoning Ordinance to the extent applicable thereto.

Respectfully Submitted,

Hingham Municipal Lighting Plant

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Dated: November 13, 2024

EXHIBITS

- Exhibit A: Hingham Zoning By-law and Zoning Map
- Exhibit B: Weymouth Zoning Ordinance and Zoning Map
- Exhibit C: USGS Locus Map – Hobart II (Hingham) Substation
- Exhibit D: Site Plan of Hobart II Substation
- Exhibit E: USGS Locus Map – Tap Station
- Exhibit F: Site Plan of Tap Station
- Exhibit G: Hingham Planning Board and Zoning Board of Appeals Recommendations for Proposed Hingham Substation
- Exhibit H: Checklist for Zoning Exemption Petitions
- Exhibit I: Affidavit of No MEPA Review
- Exhibit J: Draft Notice

Tighe&Bond

EXHIBIT A

ZONING BY-LAW



**HINCHAM
MASSACHUSETTS**

REVISED THROUGH APRIL 25, 2023

Carol M. Falvey
HINGHAM TOWN CLERK

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SECTION I.

Administration and Procedure

I-A. Authority and Purpose

1. This By-Law shall be known and may be cited as the Zoning By-Law of the Town of Hingham and is adopted by virtue of and pursuant to the provisions of Massachusetts General Laws Chapter 40A as amended by Chapter 808 of the Acts of 1975, as amended.
2. The purposes of the By-Law include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and, to preserve and increase amenities. Regulations may be promulgated in accordance with the provisions of Massachusetts General Laws Chapter 40A, as amended, in order to fulfill the purposes of this By-Law.
3. Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting, or regulating the use, alteration, size, bulk height, area, and location of buildings and structures and the use of premises in the Town of Hingham.
4. Wherever words of one gender appear in the Zoning By-Law of the Town of Hingham such words shall be construed to include all genders.

I-B. Basic Requirements

All buildings or structures hereafter erected, reconstructed, altered, enlarged or moved, or use of premises in the Town of Hingham, shall be in conformity with the provisions of this By-Law. Any building, structure, or land shall not be used for any purpose or in any manner other than is permitted in the district in which such building, structure or land is located.

Any use not specifically provided for in a district herein shall be deemed to be prohibited. In accordance with Massachusetts General Laws Chapter 40A, and notwithstanding any provisions to the contrary, this By-Law shall not prohibit, regulate, or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased (1) by the Commonwealth of Massachusetts or any of its agencies, subdivisions, or bodies politic or (2) by a religious sect or denomination, or (3) by a nonprofit educational corporation, provided however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot areas, setbacks, open space, parking, and building coverage requirements in accordance with the provisions of this By-Law. Such uses shall not be exempt from the general or specific regulations of this By-Law other than use regulations.

No use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, electrical interference or substantial erosion or flooding

which may affect or impair the normal use and peaceful enjoyment of any property, structure, or dwelling in the neighborhood.

No land within any use district in the Town of Hingham may be used for the collection, treatment, storage, burial incineration of radioactive waste, including but not limited to, wastes classified as low-level radioactive waste.

I-C. Enforcement

Except as otherwise provided, this By-Law shall be enforced by the Building Commissioner. No application of any kind of plans or specifications or intended uses shall be approved by the Commissioner unless they are in all respects in conformity with this By-Law.

1. No building shall be constructed, altered or moved and no use of land or building 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 this By-Law or with a decision of the Board of Appeals. Any application for such a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the locations of new buildings to be constructed, together with the lines within which all buildings and structures are to be erected, the existing and proposed 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. A record of all applications, plans, and permits shall be kept on file by the Building Commissioner. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction authorized by this permit is made or commenced within a period of not more than twelve (12) months after the issuance of the permit and, in cases involving construction, unless such construction is carried through to completion as continuously and expeditiously as is reasonable.
2. No premises and no building erected, altered, or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without a certificate of occupancy signed by the Building Commissioner. Such certificate of occupancy shall not be issued until the premises or building and their uses comply with this By-Law. A record of all applications and certificates of occupancy shall be kept on file by the Building Commissioner.

In town house, garden apartment and apartment house developments, and/or any other multi-unit residential developments (exclusive of subdivisions) (herein a "development"), certificates of occupancy shall not be issued by the Building Commissioner for more than 85% of the dwelling units within the development of within an approved phase of the development until:

- a. all "site work improvements", as hereinafter defined, shown on the approved development plans for the entire development, or for an approved phase of the development, and required by the applicable permits or approvals for the development, shall have been fully completed. Site work improvements shall not be considered fully completed until a project engineer has submitted to the Building Commissioner as-built plans (for the entire development or applicable phase of the development) and a certification that such site work improvements have been completed in accordance with the approved development plans or approved phase thereof and the applicable permits or approvals; or

b. the developer has applied for and obtained a Special Permit A1 from the Board of Appeals requesting relief from the 85% limitation on certificates of occupancy. Each application for a Special Permit A1 pursuant to this section shall include, in addition to all other application requirements, a certification of a project engineer as to the status of site work improvements remaining to be completed, the number and percentage of dwelling units remaining to be completed in the development of phase thereof, and such additional information related thereto as may be requested by the Board of Appeals. Upon making a Finding that:

- (i) a delay in the completion of the remaining site work improvements will not adversely impact the occupants of the completed dwelling units;
- (ii) is not required for the safe occupancy of additional dwelling units; and
- (iii) the granting of relief from said limitation will not jeopardize the likelihood of full completion of the site work improvements;

said Finding to be used in lieu of the Special Permit approval criteria contained in Section I-F, 2., the Board of Appeals may partially waive the 85% limitation and allow the Building Commissioner to issue certificates of occupancy in a manner consistent with the first paragraph of this Section I-C, 2.

Notwithstanding the foregoing, the Board of Appeals shall not allow, and the Building Commissioner shall not issue, certificates of occupancy for more than 95% of the dwelling units within the development or approved phase of the development until the project engineer has submitted to the Building Commissioner as-built plans and a certification that the site work improvements have been completed in accordance with the approved development plan or approved phase of the development plan and the applicable permits and approvals.

"Site work improvements" as used herein shall include all improvements to be made or constructed in connection with the development (exclusive of dwelling structures), including, but not limited to, roadways, parking lots, sidewalks and walkways, grading, landscaping, utilities, wastewater treatment, drainage and other required infrastructure. For the purpose of this section, the "developer" shall be deemed to include the original applicant and all successors or assigns of the applicant, including any and all parties seeking Building Permits or certificates of occupancy for the initial construction or initial occupancy of one or more dwelling units within the development or applicable phase thereof. The "project engineer" shall be a licensed engineer working on behalf of the developer and shall include the original project engineer at the time of application to the permit granting authority and all successors to the original project engineer.

3. The provisions of this By-Law may be enforced by the Zoning Enforcement Officer by non-criminal disposition pursuant to the provisions of M.G.L. Chapter 40, Section 21D. Any person who violates the provisions of this By-Law may be subject to a penalty of \$100 for the first offense; \$200 for the second offense; and \$300 for the third and each subsequent offense if, after receiving written notice of the violation(s) from the Zoning Enforcement Officer, the person fails to correct the violation(s) within seven (7) days of receipt of such notice, or within such longer time as the Zoning Enforcement Officer may grant in appropriate circumstances. Each day that a violation exists shall be deemed to be a

separate offense from and after delivery of such notice from the Zoning Enforcement Officer.

In the alternative, any person who violates the provisions of this By-Law, or who refuses or neglects to comply with a stop work order or notice of violation by the Zoning Enforcement Officer issued under the provisions of M.G.L. Chapter 40A or the provisions of this By-Law, shall be subject to the enforcement provisions of M.G.L. Chapter 40A, including a fine of \$100 for the first offense; \$200 for the second offense; and \$300 for the third and each subsequent offense. Each day that a violation exists shall be deemed to be a separate offense. Nothing in this section shall prohibit the Zoning Enforcement Officer from seeking injunctive relief as a remedy in accordance with M.G.L. Chapter 40A, Section 7.

I-D. Board of Appeals

1. Establishment

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Board of Appeals consisting of three (3) citizens of the Town who shall be qualified by education or experience to pass upon matters which may be brought before them shall be appointed by the Select Board for a term of three years, the term of one member expiring each year. At least two associates shall be appointed in a like manner. No member of the Board of Appeals shall act on any matter in which the member may have a personal or financial interest, and in such event, an associate member shall be designated to serve on the Board and to act upon the matter.

2. Powers

The Board of Appeals shall have the following powers which shall in no way conflict with the provisions of this By-Law.

a. Appeals - To hear and decide an Appeal taken

- (i) by any person aggrieved by reason of their inability to obtain a permit or enforcement action from the Building Commissioner under the provisions of Massachusetts General Laws Chapter 40A, or of this By-law,
- (ii) by the regional planning agency in which area the Town is situated, or
- (iii) by any person, including an officer or board of the Town of Hingham or of any abutting municipality, aggrieved by an order or decision of the Building Commissioner, in violation of any Provision of Massachusetts General Laws Chapter 40A, or of this By-Law.

b. Special Permits - To hear and decide an application for a Special Permit A1 or Special Permit A2 as provided in this By-Law, only for uses in specified districts which are in harmony with the general purposes and intent of this By-Law and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use. A Special Permit shall lapse within a three (3) year period or a shorter period if so specified by the Board, which shall not include any time required to pursue or await the determination of an appeal pursuant to Massachusetts General Laws Chapter 40A, Section 17, and if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun within the period except for good cause.

- c. Variances - To hear and decide a petition with respect to particular land or structures for a Variance from the terms of this By-Law, including a Variance authorizing a use or activity not otherwise permitted in a particular zoning district, where the Board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of this provision of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this By-Law. The Board of Appeals may impose conditions, safeguards, and limitations, both of time and of use, including the continued existence of any particular structure but excluding any condition, safeguard, or limitations based upon the continued ownership of the land or structure to which the Variance pertains by the applicant, petitioner, or any owner. If the rights authorized by a Variance are not exercised within the one (1) year of the date of the authorization, they shall lapse and may be re-established only after a new notice and hearing.

The Board of Appeals may, from time to time, establish and amend rules and regulations for the administration of its powers hereunder.

3. Procedure

In the case of every Appeal made to the Board of Appeals, every petition for a Variance, and every application for a Special Permit to said Board under the provisions of this By-Law, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting said notice in the Town Hall for a period of not less than fourteen (14) days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public street or way, abutters of abutters within three hundred (300) feet of the property line of the petitioner, as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board and the Planning Boards of every abutting municipality. The Assessors shall certify to the Board the name and addresses of the parties in interest. In the case of an Appeal from a decision of the Building Commissioner and in the case of a Variance, a petition shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board to take final action upon a petition within the said one hundred (100) day period shall be deemed to be a grant of the Appeal or Variance applied for.

In the case of a Special Permit, an application shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the filing and shall render a decision within ninety (90) days from the close of the public hearing. Failure to take action within the said ninety (90) day period shall be deemed to be a grant of the permit applied for.

4. Repetitive Petitions

Board of Appeals Decisions - No appeal, application, or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless (a) all but one of the members

of the Planning Board consent thereto after notice is given to parties in interest of the time and place of the proceedings to consider consent and (b) the Board of Appeals by unanimous vote finds specific and material changes in the conditions upon which the previous unfavorable action was based, describes such changes in its records, and similarly consents.

I-E. Zoning Administrator

In accordance with such qualifications as may be established by the Select Board, the Board of Appeals shall appoint, from time to time, a Zoning Administrator, to serve at its pleasure, which appointment shall be subject to confirmation by the Select Board. Said Administrator shall be empowered to carry out such duties and powers as may be delegated by the Board of Appeals in accordance with Massachusetts General Laws Chapter 40A, Section 13, which statute shall govern the rights of aggrieved persons.

I-F. Planning Board

1. Powers

The Planning Board shall have the following powers which shall in no way conflict with the provisions of this By-Law.

- a. Site Plan Review – To hear and decide an application for Site Plan Review in accordance with Section I-I of this By-Law.
- b. Special Permits –To hear and decide an application for a Special Permit A3 for uses in specified districts that are in harmony with the general purposes and intent of this By-Law. A Special Permit A3 shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use.
- c. One associate member of the Planning Board shall be appointed in the manner herein provided for a term of one (1) year to act on Special Permit A3 applications if necessary. The associate member of the Planning Board shall be appointed by the following procedure: (a) the Planning Board shall appoint a then current associate member of the Board of Appeals; or (b) if no then current associate member of the Board of Appeals is appointed by the Planning Board, the Planning Board and the Select Board shall jointly appoint an associate member to the Planning Board, provided that preference shall be given to former Planning Board members and former regular or associate members of the Board of Appeals. No member of the Planning Board shall act on any matter in which the member may have a personal or financial interest, and in such event, the associate member shall be designated to serve on the Planning Board and to act upon the matter.

The Planning Board may, from time to time, establish and amend rules and regulations for the administration of Site Plan Review and Special Permits which it is empowered to grant.

2. Repetitive Petitions

No application which has been unfavorably and finally acted upon by the Planning Board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless four members of the Planning Board (a) consent to a re-petition after notice is given to parties in interest of the time and place of the proceedings to consider consent and (b)

find specific and material changes in the conditions upon which the previous unfavorable action was based and describe such changes in its records.

3. Procedures for Special Permit Application, Hearing and Decision

Each application to the Planning Board for a Special Permit A3 shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Planning Board. The Planning Board shall hold a public hearing on the application, as provided in the Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The Planning Board may grant, grant with conditions, deny, or grant leave to withdraw, an application for a Special Permit A3. A copy of the decision may be filed with the Town Clerk and the Planning Board, and shall be furnished the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such recording.

4. Lapse

Except for good cause, a Site Plan Review approval or Special Permit A3 shall lapse in three (3) years after the date of issue, or such shorter period as may be specified by the Planning Board, which shall not include any time required to pursue or await the determination of an appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17.

I-G. Costs

The costs of professional consultants, experts or assistance incurred by the Board of Appeals or Planning Board shall be borne by the applicant. However, the costs to be paid by the applicant shall not exceed the reasonable and usual charges of said consultants or other experts for such services. The applicant shall deposit with their application an appropriate portion of the anticipated review costs as determined by the Boards' administrators as security for payment on such costs. No occupancy permit may be issued in accordance with Section I-C of this By-Law until the applicant has paid or reimbursed the Town for all such costs.

I-H. Special Permits

1. Procedures for Application, Hearing and Decision. Each application for a Special Permit shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Special Permit Granting Authority (SPGA). The SPGA shall hold a public hearing on the application, as provided in Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The SPGA may grant, grant with conditions, deny, or grant leave to withdraw an application for a Special Permit. A copy of the decision shall be filed with the Town Clerk, and shall be furnished to the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such recording.

2. **Approval Criteria**
An applicant is not entitled to a Special Permit. Except where Findings specific to a particular use are otherwise expressly set forth in this By-Law, the SPGA may approve such application for a Special Permit if it finds that, in its judgment:
- a. use of the site is in harmony with the general purpose and intent of this By-Law;
 - b. the proposed use complies with the purposes and standards of the relevant specific sections of this By-Law;
 - c. the specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area;
 - d. the use as developed and operated will create positive impacts or potential adverse impacts will be mitigated;
 - e. there will be no nuisance or serious hazard to vehicles or pedestrians;
 - f. adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use; and
 - g. the proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.

I-I Site Plan Review

1. **Purpose**
The purpose of this Section is to provide a comprehensive procedure for the review of land disturbance and site alterations in connection with certain uses and land development to ensure compliance with the provisions of this By-Law, to minimize adverse impacts of such land disturbance and site alterations, and to promote development which is harmonious with surrounding areas.
2. **Applicability**
Site Plan Review shall be conducted by the Planning Board or its designee and may be subject to professional consultant review consistent with Section I-G, for all projects which meet the following criteria. The word "development", as used in Section I-I, shall refer to any land disturbance, use of the land, or alteration of a site that is subject to Site Plan Review regardless of size or scope of such work.
 - a. **Major Site Plan**
 - (i) All Special Permits A2 and Special Permits A3 or any modification of a Special Permit A2 or Special Permit A3.
 - (ii) All projects which result in:
 - (A) land disturbance or an alteration of drainage patterns over a combined area equal to or greater than 20,000 sf; or
 - (B) land disturbance or an alteration of drainage patterns over a combined area equal to or greater than 5,000 sf in areas with slopes exceeding 10%.

- (iii) A larger common plan of development that would disturb more than one acre in the aggregate.
 - b. Minor Site Plan
 - All projects which result in:
 - (i) land disturbance or an alteration of drainage patterns over an area of 5,000 square feet or more (but less than 20,000 square feet); or
 - (ii) land disturbance or an alteration of drainage patterns of 2,500 square feet or more (but less than 5,000 square feet) in areas with slopes greater than 10%.
3. Exemptions.
- Notwithstanding the foregoing, the following types of projects shall be exempt from Site Plan Review:
- a. normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, Massachusetts General Laws Chapter 131, Regulation 310 CMR 10.04;
 - b. routine maintenance of existing landscaping, gardens or lawn areas;
 - c. the construction of fencing that will not alter existing terrain or drainage patterns;
 - d. installation of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain, ground cover, or drainage patterns; or
 - e. road widening or improvement projects; provided that road projects that (i) increase the amount of impervious area by greater than or equal to a single lane width, (ii) disturb more than one acre, and (iii) discharge to the Town's municipal stormwater system, shall meet the applicable requirements of the Town of Hingham MS4 Permit.
4. Procedures
- a. Pre-Application Submittal. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board.
 - b. Each application to the Planning Board for Site Plan Review shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Planning Board.
 - c. Notice of a Site Plan Review hearing shall be given in accordance with M.G.L. c. 40A, Section 11.
 - d. The Planning Board shall review and act upon the Site Plan, with such conditions as may be deemed appropriate, and notify the applicant of its decision. The decision of the Planning Board shall require an affirmative vote of three members and shall be in writing. The Planning Board shall act within seventy-five (75) days of its receipt of the Site Plan Review application, provided that, if the Planning

Board or its designee, which may include its review consultants, have requested (no later than forty (40) days after receipt of the application) additional information or submittals from the applicant, such supplemental information shall be delivered no later than sixty (60) days after receipt of the application. If such additional information is not received by such sixtieth day, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. The foregoing timeframes do not preclude the Planning Board from requiring (after such fortieth day) submission of supplemental information not previously requested.

- e. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
- f. Where the Planning Board serves as the Special Permit Granting Authority, it may consolidate its Site Plan Review and Special Permit procedures. Where the Board of Appeals serves as the SPGA, joint hearings of the Board of Appeals and the Planning Board may be held at the discretion of the Boards.
- g. An application for a building permit to perform work subject to Site Plan Review shall be accompanied by an approved Site Plan and evidence of recording of the Site Plan Review decision unless the Planning Board's review (including any extensions thereto) has expired without any action by the Planning Board.
- h. A final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions to the Site Plan Review decision, except for those conditions, which by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.

5. Submittal Requirements

All applications for Site Plan Review shall include the following information prepared by qualified registered professionals, either shown on wet-stamped and signed plans or other supporting documentation to demonstrate compliance with the Design and Performance Standards in Section I-I,6:

- a. Existing conditions and locus plan; diagram and statement of the ownership, area, dimensions, boundaries and principal elevations of the subject property; location of structures, other site improvements and conditions, and wetland resources within 100 feet of property line;
- b. Site layout plan showing the scaled and dimensioned location and footprint of existing and proposed buildings and structures, traffic circulation, access and egress drives, parking, fences, walls, walks, outdoor lighting, loading facilities, refuse facilities, and areas for snow storage, and applicable zoning setback lines;
- c. Architectural plans, if applicable, including building elevations and floor layouts;
- d. Detail sheets if applicable, including profile and representative cross sections of proposed driveways and parking areas;
- e. Zoning analysis of compliance with all relevant dimensional provisions of this By-Law, including parking requirements;

- f. Utility plan, which shall include all facilities for wastewater disposal and location of fire hydrants;
- g. Landscape plan, which shall include the following:
 - (i) the location, general type and quality of existing vegetation, wooded areas, and other landscape features such as earth berms, walls, fences, and other hardscape, and
 - (ii) the location of proposed plantings, including schedule with botanical and common name, quantity, and size of all proposed landscape material, and proposed earth berms, walls, fences, and other hardscape.
- h. a Tree Protection and Mitigation Plan for Protected Trees, which shall include:
 - (i) A tree protection plan which shall include the following information; provided, that the tree protection plan may be combined with the landscape plan (in subsection g) provided that all Protected Trees can be clearly identified; otherwise, a separate tree protection plan shall be required at such scale as is necessary to identify all Protected Trees.
 - (A) The location, height, species, and Critical Root Zone of all existing Protected Trees and all Protected Trees, including Significant Trees, that were removed within twelve (12) months prior to application for any demolition permit, building permit or other application for zoning approval or relief, with an indication of those Protected Trees to be removed and those to be retained, as applicable;
 - (B) The location, caliper, species, and planting schedule of trees to be replanted to mitigate the removal of any Protected Tree(s), if applicable; and
 - (C) For any single-family dwelling lot or two-family dwelling lot, all landscape plans required under this subsection 5.g shall also show the Tree Yard.
 - (ii) A maintenance plan for the protection of the Critical Root Zone for all Protected Trees that are proposed to be within an area of the site to be disturbed during construction and such area shall be delineated on the Tree Protection and Mitigation Plan.
- i. Grading and drainage plan, which shall include existing and proposed topography at 1-foot intervals, spot grades where applicable, drainage analysis, stormwater improvements, calculated area of disturbance, cut and fill analysis, and erosion controls;
- j. A construction schedule and construction traffic management plan that shall include the proposed travel route for construction vehicles and material deliveries, the location of parking for construction workers, and measures that will be undertaken to reduce construction related traffic.

- k. Such other materials necessary to enable the Planning Board to make a positive determination on the proposed project, including, without limitation, any information required under subsection j below if necessary; and
 - I. Major Site Plans shall require the following additional submissions:
 - (i) Analysis of compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements;
 - (ii) Site Lighting Plan showing the location, height, photometric, orientation, and specifications for all outdoor site lighting, including information on the intensity and range of illumination for each source of light proposed with low cutoff dark sky compliant lighting fixtures and no overspill onto adjoining properties greater than 0.25 foot candle;
 - (iii) Transportation Impact Assessment (TIA) detailing the expected impact of the development on transportation infrastructure. For proposed development and/or redevelopment in excess of 25,000 gross square feet or generating more than 100 vehicle trips in any one hour as determined using the latest edition of Trip Generation published by the Institute of Transportation Engineers for the appropriate land use(s), the required TIA shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition and the Massachusetts Department of Transportation's (MassDOT's) *Transportation Impact Assessment (TIA) Guidelines*. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan as part of the TIA.
6. Design and Performance Standards
- To the extent practicable, the proposed project shall be located to preserve and enhance the natural features of the site, to avoid disturbances of environmentally sensitive areas, to minimize adverse impacts of development on adjoining properties, to minimize the alteration of the natural features of the site and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the Town. In conducting a Site Plan Review, the Planning Board shall review the Site Plan for consistency with the following design and performance standards.
- a. Land Disturbance
 - Site/building design shall minimize land disturbance to natural topography to preserve drainage patterns on the site.
 - b. Site Design
 - Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.

- c. Character and Scale of Buildings
The design of the project shall minimize unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on, or approved for, the site.
- d. Preservation of Existing Vegetation, including Protected Trees, and mitigation priority shall be given to the preservation of existing stands of trees, trees at site perimeter, and contiguous vegetation with adjacent sites, as follows:
 - (i) The landscape shall be preserved in its natural state insofar as practical by minimizing removal of Significant Trees. Every effort shall be made through the design, layout, and construction of any project to save as many Significant Trees as possible.
 - (ii) For each inch of Diameter at Breast Height (DBH) of the Protected Tree(s) removed no less than one-half (0.5) inch of caliper of new, non-invasive species of tree(s) shall be replanted. Each new tree must have a minimum caliper of three (3) inches. If the Protected Tree to be removed is an overstory tree species (being a tree with a typical mature height of over forty (40) feet), the replacement tree(s) shall be an overstory tree species.
 - (iii) Clearing of other vegetation and alteration of topography shall be replicated with native vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat, if any.
- e. Limit of Clearing
Development envelopes for structures, driveways, wastewater disposal, lawn and landscape areas, and utility work shall be designated to limit clearing and grading.
- f. Finished Grade
Finished grades should be limited to no greater than a 3:1 slope wherever possible, while preserving, matching, or blending with the natural contours of the land to the greatest extent possible. Where the finished grade will be greater than 3:1, the slope shall be protected with erosion control blankets or comparable slope stabilization practices to protect the slope from erosion until it is stabilized. Finished grade shall be no higher than the trunk flare(s) of Protected Trees to be retained.
- g. Stormwater Management
The proposed project shall include adequate provisions or measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, prevent changes in groundwater levels, increased run-off, and potential for flooding, and minimize adverse impacts to neighboring properties by flooding from excessive run-off.
 - (i) The applicant shall demonstrate compliance with the Massachusetts Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system to ensure that the peak rate and total volume of surface water run-off from the site shall not be increased nor degraded in quality after construction.

- (ii) Sustainable low impact design and environmentally responsible green infrastructure improvements shall be incorporated wherever feasible.

h. Utilities

The proposed development shall be adequately served by public or private wastewater collection and treatment systems; public water system or private well; electrical distribution, telephone, cable, and fire alarm systems and may be served by a natural gas distribution system. All electrical distribution, telephone, cable, and fire alarm systems shall be installed underground.

i. Pedestrian and Vehicular Access; Traffic Management

The proposed development and/or redevelopment shall be designed with a forecast for the next seven years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation to and within the site for expected vehicles, pedestrians, and emergency vehicles; (iii) provide off-site improvements, where required, to offset the predicted impact of the development on the transportation infrastructure; (iv) reduce the impact of the proposed development on the transportation infrastructure serving the area and the Town by incorporating transportation demand management strategies; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The development shall not degrade safety for pedestrians, bicyclists, transit riders, motor vehicle occupants, or property.

- (i) Driveways. Each development shall be served by an adequate driveway.

- (A) The Board may, in certain circumstances, allow additional driveways where the access is shared or the project has frontage on two separate streets. Notwithstanding the foregoing, when the Planning Board finds that it is required for public safety, at least two (2) means of access to public ways shall be required, one (1) of which, upon approval of the Planning Board, may be restricted to emergency vehicle use.
- (B) All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way to facilitate vehicular turning movements in or out of the site and allow for safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.
- (C) Driveways shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width unless waived by the Planning Board to accommodate truck traffic or additional travel lanes where required to facilitate safe and efficient circulation within the development. The location of driveway openings in relation to adjacent streets and driveways shall provide for the convenience and safety of vehicular, pedestrian, and bicycle movement within the site, and shall comply with the driveway spacing guidelines as identified in MassDOT's *Project Development & Design Guidelines*. The number of curb cuts on state and local roads shall be minimized.

- (ii) Interior Circulation. The proposed development shall assure safe interior circulation within its site by providing separate accommodations for pedestrians, bicycles, and vehicular traffic.
- (iii) Sight Distance. Acceptable sight distance shall be provided and maintained at all driveways and intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the MassDOT or the American Association of State Highway Transportation Officials (AASHTO) standards for safe-stopping sight distance (SSD) and for intersection sight distance (ISD) where exiting traffic may degrade the performance of the intersecting roadway. Determination of required sight distance shall be based on the higher of: a) the measured 85th percentile vehicle travel speed along the intersecting roadway approaching the driveway or intersection; or b) the regulatory (posted) or statutory speed limit. Where necessary, the required sight distance shall be adjusted to account for the grade of the intersecting roadway, the number of travel lanes to be crossed or design vehicle, following AASHTO guidelines.
- (iv) Traffic Calming Features. Traffic calming measures such as raised crosswalks, raised intersections, curbline extensions, speed humps, rumble strips, sign/pavement marking treatments and/or landscaped islands may be required.

j. Lighting

The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall: reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; conserve energy and decrease lighting cost without decreasing night-time safety, security, and productivity; and preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

- (i) Shielding. All outdoor light fixtures shall be shielded so as to meet the goals of this section.
- (ii) Light Trespass. Direct light from the light source is to be confined within the property boundaries and shall not cause overspill on adjacent property or into the night sky. Light trespass shall be limited to 0.25 foot-candles at the property line.
- (iii) Height of Fixtures. Luminaires attached to a building for area lighting shall be mounted no higher than fifteen (15) feet above grade. Pole mounted exterior lighting fixture types shall be mounted no higher than twenty (20) feet above grade.

7. Approval Criteria

The Planning Board shall grant, or grant with conditions, Site Plan Approval if it finds in its judgment that:

- a. The proposed development will not adversely affect the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally.

- b. The proposed development meets all applicable Design and Performance Standards, or it is impractical to meet one or more of such Standards and a waiver of such Standard(s) will not adversely impact the interests set forth in subsection 7.a above or any potential adverse impacts will be mitigated.
- 8. **Conditions of Approval**

The Planning Board may impose reasonable conditions in furtherance of the objectives of the Design and Performance Standards. The Planning Board shall limit the proposed development so that its impact on each of the municipal services, ways, utilities and other resources does not exceed its existing design capacity. This limitation shall be imposed upon the proposed development regardless of the intensity of development otherwise permitted by this Zoning By-Law. In addition to such other conditions as may be imposed by the Planning Board under this Section I-I, Site Plan Approvals shall be subject to the following conditions, as applicable:

 - a. **Pre-Construction Meeting**

For all projects requiring erosion control installation or any clearing a pre-construction review meeting with inspection of the erosion control installation and marked limits of clearing shall be required as a condition of approval for all projects. Projects that disturb one or more acres individually, or cumulatively if phased development is proposed, shall be required as a condition of any approval to provide a Stormwater Pollution Prevention Plan for review by the Planning Board or their designee not less than three weeks prior to the start of any work.
 - b. **Limits of Work; Tree Protection Areas**

During clearing and/or construction activities, the marked limit of work shall be maintained until all construction work is completed and the site is cleaned up. All vegetation beyond the limit of work shall be retained in an undisturbed state and no stockpiling of topsoil or storage of fill, materials, or equipment may occur within the protected area. Without limiting the foregoing, Protected Trees to be retained shall be surrounded by temporary protective fencing or other appropriate measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Protective barriers shall be large enough to encompass the Critical Root Zone of all Protected Trees to be preserved.
 - c. **Inspections**

Inspections shall be required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control, limits of work, and tree protection areas during construction and the approved drainage and stormwater system installed for the project, as well as the condition of the tree protection areas. The Planning Board may require, at the applicant's expense, the establishment of a consultant fee account pursuant to Massachusetts General Laws Chapter 44 Section 53G, to fund the cost of such inspections.
 - d. **As-Built Plan Requirement**

Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must

- demonstrate substantial conformance with the stormwater system design and performance standards of the approved project plans.
- e. Maintenance of Protected and Replacement Trees
Each Protected Tree retained, and all new trees planted to mitigate the removal of Protected Tree(s), shall be maintained in good health for a period of no less than twenty-four (24) months from the date of final inspection, or issuance of a Certificate of Occupancy, if applicable. Should such tree(s) die or be removed within such twenty-four (24) month period, the owner of the property shall be required to replace such tree with a tree consistent with the requirements within nine (9) months from the death or removal of such Protected Tree or new tree.
9. Waivers; Minor Modifications; Administrative Review;
 - a. Upon written request of the applicant, the Planning Board may waive any of the submittal requirements deemed by the Planning Board to be not necessary for its review of the application. In addition, the Planning Board may waive other such requirements of this Section I-I, including the requirement for a public hearing, where the Planning Board determines that the project constitutes a minor modification to an approved Site Plan.
 - b. in order to constitute a minor modification, the proposed work must be limited to modifications to an approved Site Plan which, in the Planning Board's determination, do not materially or adversely affect conditions governed by the Site Plan Review design and performance standards set forth in this Section I-I.
 - c. The Planning Board may, by a majority vote of the Board, establish an administrative process for Site Plan Reivew of certain Minor Site Plans. Pursuant to administrative review, the Planning Board may delegate to the town planner and/or to a designated Board member the authority to determine whether a project constitutes a Minor Site Plan. The Planning Board designee may refer any Minor Site Plan application to the Planning Board for its review in lieu of administrative review if, in such designee's discretion, the scope of the project merits review by the Board. In addition, any applicant may request Site Plan Review by the Planning Board in lieu of administrative review at the time of application, or any applicant aggrieved by a Minor Site Plan Review decision of the designee may reapply for Site Plan Review by the Planning Board and such review shall be considered a new application for Site Plan Review, except that a separate fee shall not be required.
 10. Appeal
Any decision of the Planning Board pursuant to this Section I-I may be appealed in accordance with MGL c. 40A, s. 17.

I-J. Amendment

This By-Law may be amended from time to time at an annual or special Town Meeting. An amendment may be initiated by the submission to the Select Board of a proposed change by the Select Board, the Board of Appeals, an individual owning land in the Town to be affected by the amendment, registered voters of the Town pursuant to Massachusetts General Laws Chapter 39, Section 10, the Planning Board, or the regional planning agency. Within fourteen (14) days of the receipt of a proposed change, the Select Board shall

submit it to the Planning Board for review and a report. A public hearing is held by the Board within sixty-five (65) days after the proposed change is submitted to the Board.

1. Repetitive Amendments

No proposed change in this By-Law which has been unfavorably acted upon at the Town Meeting shall be considered 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 to the Town Meeting.

I-K. Validity

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

I-L. Effective Date

The effective date of an amendment to this By-Law shall be the date on which such amendment was adopted by a favorable two-thirds (2/3) vote of Town Meeting subject to its publication in a Town bulletin or pamphlet and posting or publication in a newspaper as provided in Massachusetts General Laws Chapter 40, Section 32.

SECTION II.

Districts

II-A. Zoning Districts

For the purposes of the By-Law, zoning districts are established and designated as follows:

1. Residence District A
2. Residence District B
3. Residence District C
4. Business District A
5. Business District B
6. Industrial District
7. Industrial Park District
8. Limited Industrial Park District
9. Waterfront Business District
10. Office Park District
11. Residence District D
12. Residence District E
13. Waterfront Recreation District
14. Business Recreation District
15. Official and Open Space District

II-B. Overlay Districts

For the purposes of this By-Law, overlay districts are established and designated as follows:

1. Floodplain Protection Overlay District
2. Accord Pond Watershed and Hingham Aquifer Protection District
3. South Hingham Development Overlay District
4. Personal Wireless Services Overlay District
5. Downtown Hingham Overlay District
6. Hingham Harbor Overlay District

All requirements of the underlying zoning districts remain in full force and effect, except as superseded by the specific overlay district regulations. The Overlay Districts are shown on the Zoning Maps.

II-C. Zoning Maps

1. Zoning Districts and Accord Pond Watershed and Hingham Aquifer Protection District
The Zoning Map of the Town of Hingham Massachusetts, Parts A and C, filed in the office of the Town Clerk, is made a part of this Zoning By-Law, and locations and boundaries of the several districts shall be as indicated, respectively, on said Zoning Map.
2. Floodplain Protection Overlay District
The Zoning Map Part B Floodplain Protection Overlay District, filed in the office of the Town Clerk, is made a part of this Zoning By-Law, and locations and boundaries of the district shall be as indicated on said Zoning Map.

II-D. District Boundary Lines

Unless otherwise indicated on the zoning map, the boundaries between districts are to be determined according to the following criteria:

1. where a boundary is shown following a street, railroad, or utility, the boundary shall be the center line thereof unless otherwise indicated;
2. where a boundary is shown outside a street, railroad, or utility and approximately parallel thereto, the boundary shall be deemed parallel to the nearest 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 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 district boundary 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 of the map;
5. where a district boundary line divides any parcel existing at the time such line is adopted, the regulation for the less restricted portion of such parcel shall extend not more than thirty (30) feet into the more restricted portion, provided the parcel has frontage on a street in the less restricted district;
6. where a boundary is shown as the shoreline, the boundary shall coincide with the shoreline as that shoreline existed at the time of the zoning map; and
7. where a boundary is shown as a contour line including a numerical figure in feet, the boundary shall be at that number of feet above mean sea level at every point throughout its entire length. The basic source for determining such a line shall be the U.S. Geodetic Survey quadrangle sheets or refinements by subsequent detailed field surveys.

SECTION III.

Use Regulations

III-A. Schedule of Uses

1. No building, structure, or land shall be used for any purpose or in any manner other than as set forth in the Schedule of Uses, Section III-A of this By-Law. The symbols "P", "A", and "O" as therein used having the following application:

P - Use permitted
A1 - Use allowed under a Special Permit by the Board of Appeals as provided in Section I-H
A2 - Use allowed under a Special Permit by the Board of Appeals as provided in Section I-H and subject to Site Plan Review by the Planning Board as provided in Section I-I
O - Use prohibited

2. Permitted uses and uses allowed by the Board of Appeals shall be in conformity with all dimensional requirements, off-street parking requirements, and all other applicable requirements of this By-Law. Allowed uses for projects authorized by a Mixed-Use Special Permit under Section IV-G are set forth in Section IV-G.
3. In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, including, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption of marijuana, and any other types of licensed marijuana-related businesses, as well as businesses dealing in marijuana accessories, and the conducting of any such activity for commercial purposes by whatever name used, shall be prohibited within the Town of Hingham. This prohibition shall not be construed to prohibit Registered Marijuana Dispensaries to the extent permitted under this Zoning By-Law.

III-B. Special Conditions to Schedule of Uses

Special conditions shall apply as shown in Section III-A to such uses as are designated therein as being subject to one or more of the following special conditions:

1. The minimum lot size on which such use will be permitted shall be 2 acres. All buildings not used for residence shall be placed a minimum of 40 feet from the front, side and rear lot lines.
2. No part of such use shall be located within 1,000 feet of any residence district.
3. All setback requirements of the district in which the use subject to this special condition is located shall prevail and, in addition, no filling pump or any structure may be located within 25 feet of a property line or public way. A minimum of 1,000 square feet of paved area shall be provided for each filling pump. No more than two driveways of 26 foot width each shall be permitted per street. Curbing shall be installed along each line except at driveways.
4. No dwelling unit shall be leased or rented for a period of less than 30 consecutive days.

5. For properties zoned Industrial Park or Office Park that are included in the South Hingham Development Overlay District, refer to Section III-E, South Hingham Development Overlay District, for additional information regarding uses and dimensional criteria.
6. Subject to issuance of a temporary permit by the Building Commissioner pursuant to published regulations establishing hours of operation, size of lot, number and location of parking spaces, lighting, access and signage.
7. For parcels zoned Business A included in the Downtown Hingham Overlay District, refer to Section III-G, Downtown Hingham Overlay District, for additional information regarding permitted and prohibited uses and Design Review. Leased parking for Commercial/Residential Buildings is permitted only in conjunction with a Special PermitA2 for a Commercial/Residential Building and subject to the requirements of Section III-G, 7.a.
8. The following uses shall be allowed as of right to the extent required by M.G.L. c.40A, §3 but shall be subject to Site Plan Review in accordance with Section I-I of this By-Law, provided that the requirements of Section I-I may only be applied to such uses in a manner consistent with the provisions of M.G.L. c.40A, §3.
 - a. The uses set forth in Section III-A, subsections 2.1, 2.3, 4.5, 4.6 and 4.7.
 - b. To the extent included within the uses listed in Section III-A, subsections 3.1 through 3.4, inclusive of the use of land or structures for religious purposes or 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, and the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility, all as set forth in M.G.L. c.40A, §3. Site Plan Review of these uses shall be limited to reasonable regulations concerning the bulk and height of structures, and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, or such other matters which may be subject to regulation under M.G.L. c.40A, §3 as the same may be amended from time to time.
9. Registered Marijuana Dispensaries shall be allowed by Special Permit A2, subject to Section V-H, only for properties zoned Industrial Park or Office Park which are located in the South Hingham Development Overlay District.

III-A SCHEDULE OF USES

DISTRICTS

LEGEND
R=Residence B=Business
I=Industrial IP=Industrial Park OP= Office Park
LIP=Limited Industrial Park WR=Waterfront Business
OO=Official and Open Space BR=Business Recreation

READ DOWN USING HEADINGS AT THE TOP OF THE PAGE

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space		
A	B	C	D	E	A**	B	P	P	O	P	O	O	P	O	O	O	O	O	O	O
1. RESIDENTIAL, subject to Special Condition 4 of Section III-B																				
1.1	Single-Family Dwelling, together with such accessory buildings and structures as are customarily incidental thereto.																			
1.2	Alteration and conversion of a Single-Family Dwelling containing at least 6 rooms exclusive of hall and bathroom existing prior to March 10, 1941, to accommodate not more than two families, provided that the exterior design of the structure is not changed from the character of a Single-Family Dwelling.																			
A1	A1	A1	A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	O	O	O	
1.3	House trailer or mobile home, if approved by the Board of Health. The required authorization by the Board of Appeals may be granted for a period of not more than six months and shall be subject to renewal for only one additional six-month period.																			
A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	
1.4	Apartment House, subject to the provisions of IV-E, Multi-Unit Development.																			
O	O	O	O	O	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	O	
1.5	Buildings containing multiple dwelling units, and community and other buildings accessory thereto, constructed and operated pursuant to the provisions of Section 38, 39, 40, and 41 of Chapter 121B of the Massachusetts General Laws, providing housing for elderly persons of low income, or constructed and operated pursuant to the provisions of Sections 25-32 of Chapter 121B of the Massachusetts General Laws, providing housing for persons of low and moderate income, subject to the provisions of IV-E, Multi-Unit Development. This use shall be exempt from subsection 4 of Section IV-C.																			
A2	O	O	A2	A2	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	O	
1.6	Town House – Not less than four nor more than ten connected dwelling units, subject to the provisions of IV-E, Multi-Unit Development.																			
O	O	O	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B													
1.7	Garden Apartments not less than four nor more than 10 connected dwellings, subject to the provisions of IV-E, Multi-Unit Development.	O	O	O	O	A2	O	O	O	O	O	O	O	O	O	O	O	O	
1.8	Accessory Uses when in conjunction with Single-Family Dwelling and Two-Family Dwelling (subject to Section III-1):	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
1.8.1	Garaging of not more than 3 private-passenger vehicles provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
1.8.2	Garaging or parking of one non-private passenger vehicle with a maximum gross weight of 10,000 lbs. provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
1.8.3	Garaging or parking of a non-private passenger vehicle in excess of 10,000 lbs. or more than one non-private passenger vehicle, provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	
1.8.4	Professional office or studio of a resident physician, dentist, attorney, architect, artist, musician, engineer, real-estate or insurance broker, or member of another recognized profession, provided that no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time, and further provided that any display or advertising shall be in accordance with provisions of Section V-B.	P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O	O	O	
1.8.5	The office or studio of a resident art dealer, interior decorator, or appraiser, provided that said office or studio is open to clients by appointment only, that no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time, and that there shall be no display or advertising visible from the street and no exterior signs.	P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O	O	O	
1.8.6	Customary home occupation such as dressmaking and millinery conducted by a resident on the premises, provided that no more than one other person is regularly employed therein in connection with such use, and that there is no exterior storage of material or equipment, and that no display of products is visible from the street, and that any display or advertising is in accordance with Section V-B.	P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O	O	O	
1.8.7	In accessory buildings incidental to a Single-Family Dwelling or a Two-Family Dwelling, the following uses are permitted: (a) the accessory uses listed in subsections 1.8.1 through 1.8.6 above; and/or (b) such other uses as are customarily incidental to a residential use, including, but not limited to, barns, garages, workshops, artist studios and the like, living rooms, eating areas, cooking facilities and sanitary facilities (excluding bathing facilities), as long as, in combination, these uses do not create a detached dwelling unit with complete living facilities for one or more households. Notwithstanding the foregoing, bathing facilities shall be permitted within a pool house located directly adjacent to and serving an in-ground swimming pool.	P	P	P	P	P	P	O	O	O	O	O	O	O	O	O	O	O	

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B													
1.8.8	Bed and Breakfast Establishment in conjunction with a single-family dwelling only (subject to Section V-G) permitted with a Special Permit A2																		
A2	A2	A2	A2	A2	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	O
1.8.9	Accessory Dwelling Units within a single-family dwelling, subject to Section V-K																		
A1	A1	A1	A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	O	O	O
1.8.10	Outdoor storage of not more than one unregistered vehicle																		
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
1.8.11	Outdoor storage of two or more unregistered vehicles, provided, however that such vehicles shall be screened from public view																		
A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
2. AGRICULTURE																			
2.1	Agricultural Use protected under M.G.L. c. 40A §3 (including, without limitation, single-family dwelling for resident proprietor), subject to Special Condition 8 of Section III-B.																		
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2.2	Agricultural Use not protected under M.G.L. c. 40A §3 (except uses governed by subsections 2.3, 4.5, 4.6, and 4.7), subject to Special Condition 1 of Section III-B.																		
A2	A2	A2	A2	A2	O	O	A2	O	O	O	O	A2	A2	A2	A2	A2	A2	A2	A2
2.2.1	Single-family dwelling for resident proprietor of use governed by subsection 2.2																		
P	P	P	A2	A2	O	O	A2	O	O	O	O	A2	A2	A2	A2	A2	A2	A2	A2
2.3	Seasonal sale of cut Christmas trees (unless governed by subsection 2.1), subject to Special Condition 6 of Section III-B.																		
O	O	O	O	P	P	P	O	O	P	P	P	P	P	P	P	P	P	P	P
3. INSTITUTIONAL, EDUCATIONAL, AND RECREATIONAL USES																			
3.1	Church or other place of worship, parish house, rectory, convent, and other religious institutions, subject to Special Condition 8 of Section III-B.																		
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
3.2	Schools or Playgrounds - Public, religious, sectarian, or denominational, subject to Special Condition 8 of Section III-B.																		

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B													
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
3.3	Schools - Private, including dormitories accessory thereto, subject to Special Condition 8 of Section III-B.																		
A2	A2	A2	A2	A2	A2	A2	A2	O	O	A2	A2	A2	A2	A2	A2	O	O	A1	
3.4	Nursery school or other use for the day care of children, other than as exempted under Massachusetts General Laws Chapter 40A, Section 3, or a privately organized camp, providing any outdoor play area is at such a distance and so screened from any residential structure on an adjoining lot as to avoid a noise nuisance, subject to Special Condition 8 of Section III-B.																		
A1	A1	A1	A1	A1	A2	A2	A2	O	O	A2	A2	A2	A2	A2	A2	O	O	A1	
3.5	Public buildings and premises for government use, including public libraries, museums and parks																		
P	P	P	P	P	P	P	P	A2	A2	P	P	P	P	P	P	A2	A2	A1	
3.6	Private non-profit library, museum, or community center.																		
A2	A2	A2	A2	P	P	P	A2	A2	O	A2	A2	A2	A2	A2	A2	A1	A1	A1	
3.7	Country, golf, swimming, skating, yacht, or tennis club, or other social, civic, or recreational lodge or club-- not conducted as a business																		
A2	A2	A2	A2	P	A2	A2	A2	A2	O	A2	A2	A2	A2	A2	A2	P	A1	A1	
3.8	Hospital																		
O	O	O	O	O	A2	A2	O	O	A2	A2	A2	A2	A2	A2	O	O	O	O	
3.8A	Clinic																		
O	O	O	O	O	A2	A2	A2	O	O	A2	A2	A2	A2	A2	A2	O	O	O	
3.8B	Nursing home, rest home, convalescent home, congregate living facility, charitable institution or other non-correctional institutional use.																		
A2	A2	A2	A2	A2	A2	A2	O	O	O	A2	A2	A2	A2	A2	A2	O	O	O	
3.9	Cemetery																		
A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	O	O	O	O	A1	
3.10	Public-utility buildings and structures																		

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B	P	P	A2	O	P	P	P	P	P	P	P	P	P
A1	A1	A1	A1	A1	P	P	P	P	A2	O	P	P	P	P	P	P	P	P	A1
3.11	Outdoor Concession as an accessory use when supporting outdoor athletic field uses permitted or allowed under subsections 3.2, 3.3, 3.5 and 3.7 (subject to Section III-J).																		
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	A1
4. COMMERCIAL																			
4.1	Retail store (other than those specified elsewhere on this Schedule) distributing merchandise to the general public.																		
0	0	0	0	0	0	P	P	P	A2	O	O	O	O	O	O	O	O	O	0
4.2	Craft, consumer, or commercial service establishments dealing directly with the general public																		
0	0	0	0	0	0	P	P	P	A2	O	O	O	O	O	O	O	O	O	0
4.3	Undertaking establishment or funeral home.																		
0	0	0	0	0	0	A2	A2	O	O	O	O	O	O	O	O	O	O	O	0
4.4	Animal or veterinary hospital, subject to Special Condition 1 of Section III-B, except in the Industrial Park District.																		
A2	A2	A2	A2	O	A2	A2	A2	O	O	O	A2	A2	A2	A2	A2	A2	A2	A2	0
4.5	Commercial breeding, sale, or boarding of dogs, cats, or fur-bearing animals (unless governed by subsection 2.1), subject to special condition 1 of Section III-B, except in the Industrial Park District.																		
A1	A1	A1	A1	O	A1	A1	O	O	O	O	A2	A2	A2	A2	A2	A2	A2	A2	0
4.6	Commercial greenhouses (unless governed by subsection 2.1).																		
0	0	0	0	0	P	P	P	P	O	O	P	P	P	P	P	P	P	P	0
4.7	Riding stable (unless governed by subsection 2.1), subject to Special Condition 1 of Section III-B.																		
A2	A2	A2	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	O	O	A1
4.8	Newspaper or job printing.																		
0	0	0	0	0	P	P	P	P	O	O	P	P	P	P	P	P	P	P	0
4.9A	Sit-down restaurant																		

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B													
O	O	O	O	O	O	A2	A2	A2	A2	O	A2	A2	A2	O	A2	O	A2	O	
4.9B	Fast-food/Take-out restaurant																		
O	O	O	O	O	A2	A2	A2	A2	A2	O	A2	A2	A2	O	A2	O	A2	O	
4.10	Business or professional offices or agencies.																		
O	O	O	O	P	P	P	P	P	P	A2	O	P	P	P	P	P	P	P	
4.11	Bank or other financial institution.																		
O	O	O	O	P	P	P	P	P	P	A2	O	P	P	P	P	P	P	P	
4.11A	A drive-up bank teller or automated teller machine (ATM) operated by a bank or financial institution for the convenience of its customers.																		
O	O	O	O	A2	A2	A2	A2	A2	A2	O	A2	A2	A2	O	A2	O	A2	O	
4.12	Commercial indoor amusement or recreation place or place of assembly.																		
O	O	O	A2	O	P	P	O	O	O	O	O	O	O	O	A1	O	A1	O	
4.12A	Health Club																		
O	O	O	A2	O	P	P	A2	O	O	O	A2	A2	A2	O	A2	O	A2	O	
4.13	Commercial outdoor amusement or recreation place not including an outdoor movie theater.																		
O	O	O	O	O	O	A1	O	O	O	O	O	O	O	O	A1	O	A1	O	
4.14	Freight terminal or storage warehouse.																		
O	O	O	O	O	O	P	O	O	O	O	P	P	P	O	O	O	O	O	
4.14A	Storage trailers/containers (except for (i) dumpsters or other trash receptacles, and (ii) construction trailers approved under site plan review) subject to the renewal of the Special Permit on an annual basis. All storage trailers/containers must otherwise comply with dimensional, parking and other provisions of the Zoning By-Law.																		
O	O	O	O	O	A2	O	O	O	O	A2	A2	A2	A2	O	A2	O	A2	O	
4.15	Heliport, subject to Special Condition 2 of Section III-B.																		

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B													
0	0	0	0	0	0	0	A2	0	0	A2	0	A2	A2	A2	A2	0	0	0	
0	0	0	0	0	0	0	A1	0	A1	A1	0	A2	A2	A2	0	0	0	0	
4.16 Hotel or Motel																			
0	0	0	0	0	0	0	A2	0	0	A2	0	A2	A2	A2	A2	0	0	0	
4.17 Shopping Center consisting of three or more businesses described in subsections 4.1, 4.2, 4.9A, 4.9B (subject to Special Permit A2), 4.10, 4.11, 4.12, 4.12A, 4.16, 4.18, and 5.1 of this Schedule.																			
0	0	0	0	0	0	0	0	0	0	A2	0	A2	A2	A2	A2	0	0	0	
4.18 Retail Sale of Alcoholic Beverages.																			
0	0	0	0	0	P	P	P	O	A2	O	O	O	O	O	O	O	O	O	
4.19 Marine-oriented retail stores and consumer service establishments dealing directly with the general public.																			
0	0	0	0	0	P	P	P	O	A2	O	O	O	O	O	O	O	O	O	
4.20 Adult uses, subject to Section V-F																			
0	0	0	0	0	0	0	0	0	0	A2	O	O	O	O	O	O	O	O	
4.21 Body Art Establishment as defined by the Hingham Board of Health.																			
0	0	0	0	0	0	0	0	0	0	O	O	A2	O	O	A2	O	O	O	
4.22 Commercial/Residential Building (Subject to Special Condition 4 and Special Condition 7 of Section III-B)																			
0	0	0	0	0	A2	A2	O	O	O	O	O	O	O	O	O	O	O	O	
4.23 Leased Parking for Commercial/Residential Buildings (Subject to Special Condition 7 of Section III-B)																			
0	0	0	0	0	P	O	O	O	O	O	O	O	O	O	O	O	O	O	
4.24 Farmers' Market																			
0	0	0	0	0	A2	A2	O	O	O	O	O	O	O	O	O	A2	A2	A2	
4.25 Retail Store, Retail Sale of Alcoholic Beverages, or Consumer Service or Commercial Service Establishment permitted as an accessory use for up to 15% GFA within any single building.																			
0	0	0	0	0	O	O	A2	O	O	A2	A2	A2	A2	A2	A2	O	O	O	

Residence		Business		Office Park*		Waterfront Business		Waterfront Recreation		Industrial		Industrial Park*		Limited Industrial Park		Business Recreation		Official and Open Space	
A	B	C	D	E	A**	B	A2	O	O	O	O	O	O	A2	O	O	O	O	O
4.26	Registered Marijuana Dispensary, subject to Special Condition 9 of Section III-B (except for agricultural uses governed by Section 2.1).																		
0	0	0	0	0	0	0	A2	O	O	O	O	O	O	A2	O	O	O	O	O
4.27	Media Broadcasting or Production Studio																		
0	0	0	0	0	P	P	O	O	P	P	P	P	P	A2	A2	A2	A2	A2	
5. AUTOMOTIVE AND MARINE SALES AND SERVICE																			
5.1	Automotive "filling" or service station, subject to Special Condition 3 of Section III-B.																		
0	0	0	0	0	A1	A1	O	O	O	O	O	O	O	O	O	O	O	O	O
5.2	Repair or storage garage for motor vehicles or trailers, which may include body, repair, welding, or soldering shop for motor vehicles or trailers, provided such operation shall be sufficiently insulated so that any noise, flashing, fumes, gases, smoke, or vapor shall be confined to the premises.																		
0	0	0	0	0	A2	A2	O	O	O	P	P	P	A2	A2	A2	A2	A2	A2	
5.3	Salesroom for franchised dealer or recognized agent of motor vehicle manufacturer whose principal business is the sale of new motor vehicles (the purchase and sale of second-hand motor vehicles being incidental thereto), together with indoor storage and service facilities reasonably incidental to such salesroom, provided that the principal display visible from the street shall not be second-hand motor vehicles; subject to site plan review in accordance with Section I-1.																		
0	0	0	0	0	P	P	O	O	O	P	P	P	P	P	P	P	P	P	P
5.4	Marina; boat livery; sales, storage, and repair of boats, boat trailers, and marine accessories.																		
0	0	0	0	0	P	P	O	P	P	P	P	P	P	P	A2	A2	A2	A2	
6. WHOLESALE AND INDUSTRIAL USES																			
6.1	Wholesale warehouse, including office or showroom facilities.																		
0	0	0	0	0	P	P	A2	O	O	O	P	P	P	A2	A2	A2	A2	A2	
6.2	Light industrial uses, including manufacturing, storage, processing, fabrication, packaging, and assembly.																		
0	0	0	0	0	O	O	A2	O	O	O	P	P	P	A2	A2	A2	A2	A2	

*(Subject to Special Condition 5 of Section III-B)

**(Subject to Special Condition 7 of Section III-B)

III-C. Floodplain Protection Overlay District

1. The Floodplain Protection Overlay District shall be shown on a map entitled "Zoning Map Part B Floodplain Protection Overlay District." The district includes all special flood hazard areas within the Town of Hingham at or below 10 feet above Mean Sea Level (MSL) as well as all special flood hazard areas designated as Zone A, AE, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The exact boundaries of the District shall be defined by the 1%-chance base flood elevations (BFE) shown on the Plymouth County FIRM and further defined by Flood Insurance Studies. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Hingham are panel numbers 25023C0016J, 25023C0017J, 25023C0018J, 25023C0019J, 25023C0038J, 25023C0081J, 25023C0082J, 25023C0083J, 25023C0084J, and 25023C0102J, dated July 17, 2012 and 25023C0091K, 25023C0092K, 25023C0101K, and 25023C0103K, 25023C0104K, and 25023C0111K, dated July 6, 2021. The applicable FIRM and Flood Insurance Study (FIS) reports are incorporated herein by reference and are on file with the Town Clerk, Building Department, and Conservation Commission. The Letters of Map Revision are on file with the Conservation Commission.

The Floodplain Protection Overlay District is established as an overlay district to all other districts for the following purposes:

- a. to protect public health, safety and general welfare;
- b. to protect human life and property from hazards of periodic flooding;
- c. to prevent the occurrence of public health emergencies resulting from water quality contamination and pollution due to flooding;
- d. to preserve natural flood control characteristics and the flood storage capacity of the floodplain;
- e. to regulate development in floodplains in a manner that, at a minimum, meets the requirements of FEMA for participation in the NFIP.
- f. to avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; and
- g. to eliminate costs associated with the response and cleanup of flooding conditions.

All regulations in the Hingham Zoning By-Law applicable to such underlying districts shall remain in effect; except that, where the provisions of this Section III-C impose additional regulations, those additional regulations shall govern. The floodplain management regulations found in this By-Law shall take precedence over any less restrictive conflicting local bylaws or regulations. The degree of flood protection required by this By-Law is considered reasonable but does not imply total flood protection.

2. Except as provided herein and in subsections 4 and 5 of this Section III-C:
 - a. No building, wall dam, or other structure shall be created, constructed, altered, enlarged or otherwise created or moved for any living or other purposes provided

- that fences, wildlife management shelters, footpaths, bicycle paths, horse paths and footbridges are permitted if they do not affect the natural flow patterns of any water course.
- b. Dumping, filling, excavating or transferring of any material which will reduce the natural flood-water storage capacity or interfere with the natural flow patterns of any water course within this District is prohibited.
 3. The following uses are permitted as a matter of right, subject to the provisions of subsection 2 of this Section III-C and provided that said uses comply with the standards and requirements of Sections 60.3(d) and (e) of the National Flood Insurance Program (Title 44, Code of Federal Regulations):
 - a. Conservation of soil water, plants and wildlife;
 - b. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting where otherwise legally permitted;
 - c. Proper operation and maintenance of dams and other water control devices, including temporary alteration of water level for emergency or maintenance purposes;
 - d. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops; and
 - e. Accessory uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.
 4. Upon the issuance of a Special Permit A1 for an exception by the Board of Appeals, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of this Section, the following uses as permitted in single residence districts are permitted:
 - a. Duck walks and boat landings;
 - b. Appropriate municipal use, such as water-works pumping stations and parks;
 - c. Temporary storage of materials or equipment;
 - d. Dams, excavations, or changes in watercourses to create ponds or pools for swimming or other recreation or agriculture use, scenic features or for drainage improvements consistent with the purpose of this Section; and
 - e. Driveways and roads where alternative means of access are impractical.
 5. The following are specifically exempt from the provisions of this Section III-C:
 - a. All residential dwellings, and those portions only of the lots therefore needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this subsection 5, existing in the Floodplain Protection Overlay District on January 1, 1969.

- b. All industrial, commercial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this subsection 5, existing in the Flood Plain and Watershed Protection District on January 1, 1969.
 - c. All residential, commercial, industrial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargements of buildings as is permitted under this subsection 5, the Building Permits for which were issued prior to January 1, 1969.
- All dwellings and buildings referred to in this subsection 5 may be repaired, rebuilt, modified, or enlarged including but not limited to the addition of garages, additional living space, and construction of appurtenant outbuildings, together with such filling, diking, and/or draining as may be necessary therefor or for the protection of said structures from flood water inundation, consistent with the laws of the Commonwealth of Massachusetts, and compliance with all other zoning requirements, and provided such construction does not affect the natural flow patterns of any water course.
- 6. The portion of any lot in the Floodplain Protection Overlay District may be used to meet the area and yard regulations for the district in which the remainder of the lot is situated, unless otherwise restricted in this By-Law.
 - 7. All salt water areas within the limits of the Town including Hingham Harbor, Hingham Bay, Weir River and Back River and all other water bodies encircled by the Floodplain Protection Overlay District are hereby included within said District.
 - 8. If any land in the Floodplain Protection Overlay District is proven to the satisfaction of the Board of Appeals as being in fact not subject to the flooding or not unsuitable because of drainage conditions for a use or structure which would otherwise be prohibited by the provisions of this Section and the Board of Appeals determines that the use of such land for such use will not interfere with the general purposes for which the Floodplain Protection Overlay District has been established and will not be detrimental to the public health, safety and/or welfare, the Board of Appeals may grant a Special Permit A1 for such use or structure which will comply in all respects with the provisions of this By-Law, provided that any and all necessary permits, orders or approvals required by local or state law, except for Massachusetts General Laws Chapter 131, Section 40, or federal law have first been obtained. The Board of Appeals shall refer each question to the Planning Board, Conservation Commission and Board of Health and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.
 - 9. All those lands along the following named streams and their tributaries: Weir River, Accord Brook, Back River, Eel River, Plymouth River, Crooked Meadow River, Fresh River, Tower Brook, Fulling Mill Brook and by other brooks and streams that lie within a horizontal distance of twenty-five (25) feet from the mean high water line along each bank thereof except as otherwise defined on said Part B of the Zoning Map are hereby included within the Floodplain Protection Overlay District.
 - 10. Whenever an application is made for a Building Permit on a lot of land which the Building Commissioner believes may contain a Floodplain Protection Overlay District boundary, said Commissioner shall require the applicant for such permit to provide as part of such

application a plan, certified by a registered land surveyor, of the lot showing the exact location of the Floodplain Protection Overlay District boundary.

11. General Provisions Governing Floodplain Protection Overlay District
 - a. Designation of Floodplain Administrator.
The Town of Hingham hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.
 - b. Requirement to Submit New Technical Data.
If the Town of Hingham acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High Street, 6th Floor
Boston, MA 02110
Or other current address

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation
251 Causeway Street
Boston, MA 02114
or other current address
 - c. Variances to Building Code Floodplain Standards.
If the Commonwealth of Massachusetts issues variances to the flood-resistant standards as found in the State Building Code, the Town of Hingham will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record on file with the Floodplain Administrator. The Town of Hingham shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering the property, in writing from the Floodplain Administrator that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rated for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variances for the referenced development in the protection overlay district.
 - d. Variances to Zoning By-Law Related to Compliance with the National Flood Insurance Program (NFIP).
A Variance from this By-Law must meet the requirements set out by state law, provided, however, that such Variance may only be granted if the Board of Appeals also further finds: (i) good and sufficient cause and exceptional non-financial hardship exist; (ii) the Variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and (iii) the Variance is the minimum action necessary to afford relief.

- e. Permits Required for All Proposed Development in the Floodplain Protection Overlay District.
The Town of Hingham requires certain permits for all proposed construction or other development in the floodplain protection overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties. Those permits may include the Special Permit required under this By-Law, an order of conditions under the Hingham Wetland Regulations, and/or such other permits as may be required from time to time under any other local bylaw or regulation.
 - f. Permit Checklist.
The permit review process for work in the floodplain protection overlay district includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain protection overlay district in the form maintained by the Floodplain Administrator. The applicant must acquire all necessary permits and, prior to start of construction on the property, must submit the completed checklist to the Floodplain Administrator demonstrating that all necessary permits have been acquired.
 - g. Unnumbered A Zones.
In A Zones, in the absence of FEMA BFE data and floodway data, the Building Commissioner will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways. The Building Commissioner can require that the applicant pay for resources (including a base flood elevation certificate) to determine the base flood elevation when a development is being proposed.
12. Definitions: In accordance with NFIP requirements, for the purposes of this Section III-C, the following terms shall have the meaning set forth herein.
- Development** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]
- Floodway.** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]
- Functionally Dependent Use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

Historic Structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

New Construction. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

Recreational Vehicle means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

Regulatory Floodway - see FLOODWAY.

Special Flood Hazard Area. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

Start of Construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of

accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

Substantial Repair of a Foundation. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

Variance means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]"

III-D. Accord Pond Watershed and Hingham Aquifer Protection District

1. This By-Law is adopted by the Town under its home rule powers, its police powers to protect public health and welfare, and its authorization under Chapter 40, Section 21 of the Massachusetts General Laws.
2. The locations and boundaries of the Accord Pond Watershed and Hingham Aquifer Protection District shall be as shown on a map entitled "Zoning Map Parts A and C", filed in the office of the Town Clerk, which map by this reference is incorporated herein and made a part of this Zoning By-Law.

The Accord Pond Watershed and Hingham Aquifer Protection District is an overlay district established to protect the water quality of Accord Pond and the Town's aquifer area, by regulating and controlling toxic or hazardous substances within this District. Restrictions imposed hereunder shall be in addition to and not in substitution for restrictions contained in other portions of this By-Law. All land in the District is subject to the regulations set forth in this Section III-D.

3. Definitions

Accord Pond Watershed and Hingham Aquifer Protection District ("the District")

The area defined in subsection 2 of this Section as the Accord Pond Watershed and Hingham Aquifer Protection District.

Approved Container Storage

The storage of toxic or hazardous substances in a container, which container is designed and constructed to be product-tight and to resist corrosion, accidental damage or deterioration for the period of time in which the toxic or hazardous substance is intended to be stored within the District.

Approved Tank Storage

The storage of toxic or hazardous substances in a tank which provides a level of safety from discharge over the expected life of the tank at least equal to a tank constructed of corrosion-protected steel encased in a liquid-tight concrete vault and which complies with the testing and inspection procedures enumerated in subsection 10 below.

Container

Any receptacle now or hereafter used or designed for the storage of a toxic or hazardous substance which is not a tank.

Discharge

The disposal, deposit, injection, dumping, spilling, leaking or placing of any toxic or hazardous substance into or on any land or water so that such substance may enter into the District.

Store or Storage

Keeping or stocking of substances for later consumption or sale.

Tank

Any receptacle now or hereafter used or designed for storage of a toxic or hazardous substance any portion of which receptacle is buried in the ground.

Toxic and Hazardous Substances

Any substance, solution or mixture thereof which because of its quality, concentration, physical chemical or infectious characteristics would present a potential hazard to human health if discharged into a drinking water supply. This includes, but is not limited to the list of hazardous substances found in Parts 116 and 261 of Title 40 of the Code of Federal Regulations, the list of toxic substances found in Section 307 of the Federal Clean Water Act of 1977, chemical constituents specified in Tables C and E of the Drinking Water Regulations of Massachusetts in concentrations greater than drinking water limits, all as from time to time hereafter amended, acids and alkalis beyond the pH range of 5.5-8.5, heavy metal wastes and solutions petroleum products including fuels and waste oils, organic solvents and any solid material which, if exposed to water, will partially dissolve forming a toxic or hazardous liquid, any substance which can act or react with another substance likely to be located in its proximity and which upon such action or reaction would produce a toxic or hazardous substance, or any substance determined by the Board of Health to pose the hazard to health referred to above.

Use or Usage

The possession, manufacture, processing, or transporting upon the property, incorporation into the land or any structure thereon.

4. Except for uses in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall use any toxic or hazardous substance in the District except by Special Permit obtained in accordance with subsection 12 below.
5. No person or entity shall discharge any toxic or hazardous substance in the District.
6. Except for storage in tanks in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store in the District any toxic or hazardous substance in a tank except that gasoline, diesel, heating or lubricating oil may be stored by Special Permit granted in accordance with subsection 12 below. The Board shall not grant a Special Permit for storage in tanks incident to residential uses.
7. Except for storage existing on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store toxic or hazardous substances in the District unless a Special Permit shall have been granted for such storage pursuant to subsection 12 below except that storage in tanks shall be governed by the provisions of subsection 6 above.
8. There shall be exempted from the provisions of this Section III-D: (a) the disposal of sanitary wastewater generated on-site which does not contain toxic or hazardous substances; and (b) the use or storage and discharge incidental to residential uses of household products generally available in retail stores and in quantities normally used by a single family even if such products contain toxic or hazardous substances; and (c) approved container storage of heating oil for use in heating buildings in which such containers are located and for which all necessary licenses or permits pursuant to Chapter 148 of the Massachusetts General Laws have been obtained and remain in force and effect.
9. Any tank located in the District, whether or not in active use, shall be presumed to contain toxic or hazardous substances, and the owner of record of the land on which the tank is located shall be required to comply with the provisions of this By-Law until the tank is removed from the District.
10. All tanks within the District shall be tested for structural integrity and freedom from discharge utilizing such generally recognized and commercially feasible standard tests as the Building Commissioner may from time to time reasonably designate, at the following times:
 - a. incident to installation as part of the Special Permit application process; and
 - b. on the fifteenth anniversary of the installation of a tank and on each anniversary thereafter (tanks for which evidence of installation date is not available will be presumed to be at least fifteen years old); and
 - c. at any time the Building Commissioner or the Board of Health determines that toxic or hazardous substances of the type stored in the tank are being discharged into the District.

The costs of all tests shall be borne by the owner of the tank. The owner may select the individual or firm to perform the test provided the proposed individual or firm possesses credentials satisfactory to the Building Commissioner. The Building Commissioner shall witness all anniversary tests of tanks. Any tank failing inspection shall be removed from the District by the owner at the owner's cost and expense under the direction of the Building Commissioner.

11. In addition to materials otherwise required to be submitted to the Board of Appeals as part of a Special Permit application, a person or entity seeking a Special Permit hereunder shall submit to the Board of Appeals the following:

- a. the name, composition, and quantity of each substance proposed to be used or stored;
- b. the size, type, age, location (including sketch map), dates of purchase and/or installation, including Fire Department permit number if any, of any tank or container proposed to be used for storage;
- c. the method of handling, the length of time of the use or storage, the types of tank or container to be used and the estimated life thereof a description of the nature of any manufacturing processes which involve these substances, complete description of the proposed safeguards to be used (including a spill prevention plan to maintain leakage from a tank or container), a proposed inventory system designed to detect any shortage in substance being inventoried to be maintained and made available for inspection during regular business hours, and a report detailing the experience and ability of the person or entity seeking the permit, showing management and financial strength sufficient to deal with the responsibility of using or storing toxic or hazardous substances within the District; and
- d. certified copies of all tests performed on any tanks shall accompany the application form.

The Board of Appeals shall at the applicant's expense, notify the Board of Health, Water Supply Committee, and the Fire Chief of any application to use or store toxic or hazardous substances in the District.

The Board of Appeals may require the applicant, at the applicant's expense, to furnish at its request, such additional scientific, engineering, or hydrological reports or studies, bearing on the Special Permit application, prepared or performed by professionals whose expertise is deemed satisfactory to the Board.

12. The Board of Appeals, upon application of a person or entity who furnishes the materials outlined in subsection 11 above may grant, subject to the limitations contained in subsection 6 above, a Special Permit for the use or storage of toxic or hazardous substances if it finds that:

- a. storage will be either approved tank storage or approved container storage and any use will be in accordance with sound practices and in a manner designed to safeguard the District; and

- b. the person or entity applying for the Special Permit has the experience and ability to deal with the responsibility of the use or storage of toxic or hazardous substances in the District; and
 - c. such person or entity has the financial strength or has provided such other financial assurances as the Board deems appropriate to assure that financial resources sufficient to discharge the applicant's responsibilities will be available; and
 - d. that the proposed use or storage does not constitute an unwarranted risk to the District.
13. Any Special Permit granted pursuant to this Section III-D shall:
- a. be issued to a specific person or entity and shall not be assignable or transferable either voluntarily or by operation of law;
 - b. be for a specific term of years and in the case of approved tank or approved container storage be for a term not in excess of the estimated life of the approved tank or approved container; and
 - c. contain such other conditions as the Board deems appropriate or useful.
14. In the case of an application for approved container storage, where the storage period is in excess of three years, the Board in appropriate circumstances may require the container to pass an inspection as a condition of granting the Special Permit.
15. The Building Commissioner shall compile and maintain complete records concerning the use and storage of all toxic and hazardous substances in the District and shall assure that all tanks and containers used in approved tank or approved container storage are tested and inspected as required hereunder and that any conditions contained in Special Permits issued hereunder are complied with.

III-E. South Hingham Development Overlay District

1. Purpose
To assist the Town of Hingham in providing safe and efficient public infrastructure consistent with future growth potential in a designated South Hingham Development Overlay District (Overlay District).
2. Objectives
 - a. Encourage planning and development which will maintain the economic viability of businesses within the Overlay District.
 - b. Encourage future development that links major non-residential roadways in the Overlay District.
 - c. Minimize commercial and industrial related traffic impacts on surrounding residential neighborhoods.
 - d. Support future development that balances the needs of abutting neighborhoods and environmental protection with the long-term fiscal needs of the community.

3. **Applicability**
Only Industrial Park and Office Park zoned land in Hingham south of Whiting Street (Route 53) shall be subject to the requirements of this Section.
 4. **Special Permit Authority**
For those projects within the South Hingham Development Overlay District requiring a Special Permit the Board of Appeals (Board) may grant a Special Permit consistent with the requirements of this Section, Massachusetts General Laws Chapter 40A, Section 9, and any regulations which the Board may adopt for carrying out its requirements.
 5. **Permitted Uses**
The provisions set forth in Section III-A for the underlying Industrial Park and Office Park Districts shall apply, with the following exceptions:
 - a. When the underlying zoning district is Office Park
 - (i) Accessory Uses such as cafeterias, education and training facilities, and similar facilities designed for the use of on-site employees shall be allowed as part of any use permitted as-of-right or by Special Permit;
 - (ii) Automotive sales and service, as described at III-A 5.3, shall be permitted with a Special Permit A2.
 6. **Sign and Parking Criteria**
The provisions set forth in Sections V-A and V-B shall apply throughout the South Hingham Development Overlay District.
 7. **Intensity**
The provisions of IV-A (Schedule of Dimensional Requirements) shall apply, with the following exceptions:
 - a. When the underlying zoning district is Office Park
 - (i) A Floor Area Ratio (FAR) of .15 is permitted as-of-right; up to .25 may be permitted with a Special Permit A2.
 - (ii) Building Height is limited to forty-eight (48) feet, but not more than four (4) stories; Building Height up to sixty (60) feet, but not more than five (5) stories is permitted with a Special Permit A2.
 - b. When the underlying zoning district is Industrial Park
 - (i) For office use (as described in Section III-A 4.10) an FAR of 0.25 is permitted as-of-right, and up to 0.45 by Special Permit A2.
 - (ii) Building Height is limited to forty-eight (48) feet, but not more than four (4) stories.
 8. **Traffic, Safety, and Infrastructure Improvement Fund**
 - a. **Applicability**
Most of the key intersections within the South Hingham Development Overlay

District are presently at level of service D or below during peak hours creating severe traffic congestion problems and use of residential streets for through and business-related traffic. Therefore, applications for a Special Permit for an increase in the intensity of use in the underlying Industrial Park and/or Office Park District shall be subject to the procedures and regulations of the Traffic, Safety, and Infrastructure Improvement Fund (Fund), and any monies collected and deposited into said Fund shall only be used to ameliorate development-related impacts within the Overlay District, and all parts of all intersections abutting the District.

- b. South Hingham Development Overlay District Assessment
 - (i) Industrial Park District: The rate of contribution for properties whose underlying zoning is Industrial Park shall be as follows: For every square foot of gross floor area to be constructed above the gross floor area allowed (A) as if the property were governed by the regulatory, environmental and zoning restrictions then in effect and applicable to the Industrial Park District, but not this South Hingham Development Overlay District, or, (B) in the case of office use, in excess of an FAR of 0.25, and in the case of any other as-of-right or Special Permit use, in excess of an FAR of 0.35, whichever is less, a payment amounting to five percent (5%) of the building construction costs pertaining to that portion of the building(s) beyond what is allowed by-right shall be paid into a Traffic, Safety, and Infrastructure Improvement Fund. For the purposes of this Section, building construction costs shall be calculated using the upper quartile of square foot unit costs for "Factories" as noted in an appropriate annual edition of Building and Construction Cost Data published by the R.S. Means Company, Inc. of Norwell, Massachusetts.
 - (ii) Office Park District: The rate of contribution for properties whose underlying zoning is Office Park shall be as follows: For every square foot of gross floor area to be constructed above the gross floor area allowed by right, a payment amounting to five percent (5%) of the building construction costs pertaining to that portion of the building(s) beyond what is allowed by right shall be paid into a Traffic, Safety, and Infrastructure Improvement Fund. For the purposes of this Section, building construction costs shall be calculated using the upper quartile of square foot unit costs for "Offices, low-rise" as noted in an appropriate annual edition of Building and Construction Cost Data published by the R.S. Means Company, Inc. of Norwell, Massachusetts.
- c. Use of Assessments
Monies paid by the applicant shall be expended on public services within the South Hingham Development Overlay District; said services shall include, but are not limited to, engineering and traffic-related studies, land takings for public right-of-way improvements, road widenings, reconfigurations of intersections, access lanes, signalization, associated drainage and sewer improvements, lighting, sidewalks, traffic islands, and similar improvements.
- d. Schedule of Assessment Payments
Payments into the Fund shall be made in accordance with a schedule approved by the Board of Appeals. The amount of the initial payment shall be determined by the Board of Appeals at the time of the granting of the Special Permit, but shall

not exceed one-third of the total payment. Further, at the time of the granting of the Special Permit the applicant shall provide an irrevocable letter of credit or a financial instrument approved by the Board for the balance. If the applicant fails to make any subsequent payments in accordance with the Special Permit conditions, the Board of Appeals may draw down the balance of the letter of credit or the approved alternate financial instrument. The balance of the funds, if any, shall be paid immediately at the time of the issuance of a temporary or permanent occupancy permit; in no instance shall any temporary or permanent occupancy permit be granted unless the balance of the assessment due has been paid in full. The applicant may, at any time, make a lump sum payment of the entire required assessment.

e. Refund of Assessment

If for whatever reason a Special Permit lapses and no construction has occurred on the site, the applicant, upon written request to the Board of Appeals, shall be granted a public hearing. If the Board of Appeals finds that the Permit has lapsed and no construction has occurred, the applicant shall be entitled to a refund of all assessment payments.

9. Screening

For all properties subject to the regulations of the South Hingham Development Overlay District a screening plan shall be required as part of the Site Plan Review process, Section I-I. At a minimum if the development's at-grade parking areas are visible at normal eye level from a public way or from any point abutting a residential district that is less than five hundred (500) feet away, they shall be screened by an ornamental lattice, planted berm, opaque fence, or sight-obscuring planting or screenings which are comprised of at least seventy-five percent (75%) evergreen shrubs or trees. Plantings shall be maintained in healthy growing condition, and fencing shall be maintained in good repair by the land owner.

III-F. Personal Wireless Services Overlay District

1. Purpose

The purpose of this Section is to establish a district in which adequate Personal Wireless Services (as defined in Section V-E) may be provided with minimal harm to the public health, safety and general welfare. Specifically, the District is created to protect the character and appearance of the Town, to assure public safety, to reduce adverse visual effects and to maintain the Town's scenic, historic and environmental resources.

2. Location

The Personal Wireless Services Overlay District shall include the following parcels: the Hingham Landfill (Assessors Map 106-3, 4, and 7), the Hingham Town Hall (Assessors Map 80-95), South Shore Country Club (Assessors Map 70-14), and Town Forest (Assessors Maps 148-11 and 170-9).

3. Submittal Requirements

A Special Permit A2 is required to erect Personal Wireless Services Facilities (as defined in Section V-E), and service providers must comply with all requirements of Section I-I and Section V-E of this By-Law.

III-G. Downtown Hingham Overlay District

1. Purpose
To protect and promote the viability and value of business and residential properties located in the Downtown Hingham Overlay District ("Downtown") in a manner consistent with Hingham's historic character.
2. Objectives
 - a. Encourage planning and development which will maintain and improve the economic viability of Downtown businesses by encouraging a mix of uses that will maintain, provide for or encourage regular interaction with the general public on a walk-in basis on the ground floor and office and residential uses on the upper floors.
 - b. Encourage planning and development of the Downtown as a visitor destination for historic sightseeing, shopping and dining.
 - c. Encourage creation of mixed-use buildings incorporating business and residential uses to create more diverse housing options in Hingham.
 - d. Encourage planning for and more efficient use of, off-street parking to better facilitate resident and visitor access to and parking in the Downtown.
 - e. Encourage maintenance, restoration or replacement of existing structures to bring them into compliance with current building, plumbing and electric codes, as well as the latest fire and handicap access regulations, in a manner consistent with Hingham's historic character.
 - f. Preserve and/or complement the visual context of the streetscape.
3. Applicability
The Downtown Hingham Overlay District consists of parcels in Business District A extending from the intersection of South Street and Bates Way to the west and the intersection of Summer Street, Green Street and Chief Justice Cushing Highway to the east, as shown on the map "Zoning Map Parts A and C".

Parcels within the Downtown Hingham Overlay District shall be subject to the requirements of this Section. In addition, for any parcel located partially in the Downtown Hingham Overlay District, such portion located in the Overlay District shall be subject to the requirements of this Section, provided, however, that if any structure or use on such parcel lies partially in the Overlay District and partially in another zoning district, such structure or use shall comply with the requirements of this Section.
4. Permitted and Prohibited Uses
The permitted uses and uses allowed by Special Permit A2 in Business District A, as set forth in Section III-A, Schedule of Uses, shall be permitted or allowed, as applicable, in the Overlay District, with the following exceptions:

- a. the following uses are prohibited in the Overlay District:
 - Section III-A 4.3 Funeral Home
 - Section III-A 4.4 Animal or veterinary hospital
 - Section III-A 4.5 Commercial breeding
 - Section III-A 5.1 Automotive filling or service station
 - Section III-A 5.2 Auto repair
 - Section III-A 5.3 Car dealership & service facilities
 - Section III-A 5.4 Marina; boat livery; sales, storage & repair of boats
 - Section III-A 6.1 Wholesale warehouse
- b. the following uses are permitted on the upper floors of any building and may be allowed by Special Permit A2 on the ground floor:
 - Section III-A 4.10 Business or professional offices or agencies
 - Section III-A 4.11 Bank or other financial institution
 - (i) The Board of Appeals may approve such application for a Special Permit A2 if, in addition to the criteria set forth in Section I-F, 2, it finds that, in its judgment, the use is consistent with the purpose and objectives of this Section III-G as set forth above. If such use cannot meet such objectives in the proposed location, it may be granted a Special Permit A2 if at least one of the following apply and the Board of Appeals finds that the proposed use is not detrimental to the objectives of this Section, including Objective 2.a:
 - (A) The site of the use is outside the primary pedestrian area of the Downtown, such primary pedestrian area being those portions of Main Street, North Street and South Street within the Overlay District.
 - (B) The use will be located in a building existing as of January 1, 2009 which is significantly set back from the (or all of the) street(s) which such building abuts.
 - (C) The physical characteristics of the existing building (as of January 1, 2009) in which the use shall be located (such as a pre-existing residential structure within the Overlay District) are such that other permitted or allowed uses in the Overlay District are not practicable.
 - (ii) Notwithstanding the provisions of subsection 4.b.(i) above, if, as of January 1, 2009, the ground floor of any building included a "business or professional office or agency" or a "bank or other financial institution" (each a "**Pre-Existing Use**"), and such Pre-Existing Use is subsequently changed to another permitted or allowed use in the Overlay District, such ground floor may, within six (6) years of change of use, revert back to a Pre-Existing Use and such Pre-Existing Use shall be permitted subject to

Site Plan Review pursuant to subsection 4.b.(iii) below prior to issuance of a Building Permit (or a certificate of occupancy if no Building Permit is requested), but shall not require a Special Permit A2.

- (iii) The Planning Board, when conducting Site Plan Review under this subsection 4.b., shall consider, in addition to the items set forth in Section I-I,6 whether the appearance and treatment of the windows and doors of the building will maintain, provide for or encourage regular interaction with the general public.
- c. A Roof Deck may be allowed by a Special Permit A2, subject to the following criteria. If proposed in combination with another use that requires a Special Permit A2, the Special Permit process shall be combined.
- (i) Access:
 - (A) If the proposed Roof Deck is above the third story, access shall be limited to an internalized staircase and roof hatch. In no event shall any enclosed habitable space, nor Roof Deck access structures, other than a roof hatch, be permitted above the third story.
 - (B) For buildings with a height of 2.5 stories or less, the Roof Deck may be accessed either by roof hatch or from enclosed habitable space within the roof form on the ½ story level or lower story level.
 - (ii) The Roof Deck and any guardrail or fence required by the state building code that is not a design element of the building shall not be visible from the opposite side of the public way(s) that abuts the structure. Proposed roof decks on existing structures shall demonstrate compliance with this standard by installing mock-ups/story poles with yellow tape strung between the poles at a height of 36" from the decking or at the proposed elevation of the guardrail or fence if greater than 36". Roof Decks on proposed buildings will be required to demonstrate how this criterion will be satisfied during the approval process with the submittal of perspective views and/or any other submissions deemed necessary by the Planning Board.
 - (iii) No vertical structures in excess of the minimum height of guardrail or fence required by the state building code shall be permitted on the Roof Deck, including without limitation, trellises, privacy screens or the like, provided that this provision shall not prohibit natural plantings for screening approved pursuant to Site Plan or design review. Temporary, seasonal umbrellas shall be permitted provided the same are anchored in weighted stands to prevent umbrellas from becoming flying projectiles in windy weather.
 - (iv) Lighting of the Roof Deck shall be dark sky compliant and foot candles shall not exceed zero at the building edges. No light fixtures shall be placed at a height greater than the minimum height of guardrail or fence required by the state building code.

- (v) No amplified live music shall be permitted, nor amplified sound fixtures installed, on a Roof Deck.

5. Design Review Criteria

- a. Applicability. Any project located within the Overlay District, but not within a Local Historic District, and (i) subject to Special Permit or Site Plan Review or (ii) which requires a Building Permit and affects the exterior architectural features of a building or structure, shall also be subject to Design Review. The following alterations, unless subject to the requirements of Section IV-B,6 shall be exempt from the requirements of this subsection:
 - (i) normal maintenance and repair of the building or structure; and/or
 - (ii) replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.
- b. Submittal Requirements. The Building Permit, Site Plan Review and or Special Permit applications shall include photographs of the existing condition of the exterior of existing structure(s), and a narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used. Building elevations shall include detail regarding treatment of the roof, including placement and type of mechanicals, projections and any proposed Roof Deck. The Planning Board may also require additional submittals, including plans prepared by qualified registered professionals showing the total square footage and dimensions of all buildings, the building elevations and perspective renderings, and detailing the exterior architectural features of the buildings and the exterior materials to be used.
- c. In connection with its review of such work, the Planning Board shall request advisory design review comments on the proposal from the Hingham Historic Districts Commission, and may engage other professional consultants, experts or assistance consistent with the provision of Section I-F, 3 of this By-Law to ensure the proposal is architecturally and aesthetically consistent with the historic character of the Overlay District. Simultaneously with the submission of an application subject to this Section 5, the applicant shall submit a copy of the application and plans to the Historic District Commission. The Planning Board shall not act until the Commission or its designated staff has reported its recommendations or 21 days have passed from the filing of the application and no report has been received.
- d. Criteria. The Planning Board shall consider the architectural and aesthetic consistency of the proposed project with the historic character of the Overlay District, taking into account appropriate scale, massing, location of buildings on lot, roof slopes, street façade, fenestration, exterior building materials, and similar factors.

6. Commercial/Residential Building Special Permit

a. Application and Review Requirements

- (i) An application for a Commercial/Residential Special Permit A2 shall comply with all of the requirements of this Section and with Sections I-F, I-G and I-I of this By-Law. In addition, the Board of Appeals may grant a Special Permit A2 under this Section only if it finds that the applicant has demonstrated that the Commercial/Residential Building will not have an adverse impact on abutting residential or commercial neighborhoods and can be constructed with due consideration for health and safety.

b. Eligibility Requirements

- (i) Buildings which meet the following criteria are eligible to apply for a Commercial/Residential Building Special Permit:
- (ii) Buildings containing a permitted commercial use at the ground floor. A permitted commercial use shall be those uses permitted under Section III-G.4. above, but excluding parking areas, except as specifically provided in subsection 7.a. below; and
- (iii) Sufficient off-street parking to meet the requirements of subsection 7.a. of this Section III-G.

c. Additional Requirements

- (i) A commercial use shall be located at the ground floor facing the street(s) on which the parcel has frontage or facing the Station Street parking lot. The commercial use must occupy not less than 65% of the linear width of the structure facing the street and must comprise not less than 55% of the area of the ground floor of the structure; provided, however, that the Board of Appeals may approve a lesser percentage of linear width or area of the ground floor (but not less than 40%) upon making the following Findings:
- (A) with respect to parking (x) the Planning Board has made a determination pursuant to a Special Permit A3 as to the minimum required on-site parking for such site and (y) the reduction in required commercial use along the linear frontage or within the area of the ground floor of the structure is necessary for satisfying such parking determination; and
- (B) such reduction in commercial use along the linear frontage or within the area of the ground floor of the structure is consistent with Section III-G.1 and 2, and is not detrimental to the streetscape along which the structure is located
- (ii) Dwelling units shall be located above the ground floor. No dwelling units shall be permitted below the ground floor. In the event of a building with multiple ground floors due to topography the residential use may occur at different elevations in the same building but shall always be above the

respective ground floors as long as the percentages are consistent with Section III-G, 6.c.(i) Dwelling units shall not be smaller than 575 square feet for a studio or one bedroom dwelling unit and 750 square feet for a two bedroom dwelling unit. A dwelling unit may not contain more than two bedrooms.

- (iii) Adequate provision shall be made for the disposal of household trash.
- 7. Off-Street Parking Requirements in the Downtown Hingham Overlay District Except as otherwise provided in this subsection 7, the requirements set forth in Section V-A, Off Street Parking Requirements, shall apply to the Overlay District.
 - a. Parking Requirements for Commercial/Résidential Buildings

The purpose of this subsection 7.a. is to ensure that sufficient off-street parking is provided for all dwelling units created under Section III-G, 6.

 - (i) Provision for off-street parking shall be as follows:

Studio or one-bedroom dwelling unit	1 space
Two-bedroom dwelling unit	2 spaces
 - (ii) When off-street parking exists or may be constructed on the parcel where the use is proposed, the Planning Board may make a Finding in connection with a Special Permit A3 application pursuant to Section V-A that the commercial use(s) and the residential use within the Commercial/Résidential Building are complementary uses having different peak demands times, in which event on-site parking may satisfy both the residential and the commercial uses (subject to the requirements of Section 7 below in the event of a change or increase in commercial uses).
 - (iii) Parking for all dwelling units (including, without limitation, dwelling units proposed in newly-constructed or reconstructed buildings or in newly-constructed stories to existing buildings) shall be located on the same parcel or on a contiguous parcel under common ownership.
 - (iv) Notwithstanding the foregoing, for dwelling units proposed in existing stories of existing buildings which, as of December 1, 2003, (A) are at least two stories in height and (B) which lack required on-site, off-street parking to meet the requirements of this Section, the Planning Board may grant a Special Permit A3 to permit the following;
 - (A) Leased Parking for Commercial/Résidential Buildings, provided that a copy of a written, fully executed and effective lease, with a term of at least one (1) year, permitting use of sufficient parking spaces to comply with this Section for a minimum of overnight parking shall be provided to the Planning Board prior to the issuance of the Special Permit A3. For purposes of this Section III-G, "Leased Parking for Commercial/Résidential Buildings" shall be the provision of parking for dwelling units in a Commercial/Résidential Building on land of a third party located

within 500 feet of the benefited parcel (but excluding parcels with Single-Family Dwellings or Two-Family Dwellings outside of the Overlay District). The granting of a Special Permit A3 shall require a Finding by the Planning Board that such lease of parking spaces does not create a violation of the zoning of, parking requirements for existing uses on, or any Special Permit or Variance granted to, the burdened parcel. In addition, the applicant (or its successor) shall be required, as a condition of the issuance of a Special Permit, (x) to certify to the Building Commissioner annually, on the anniversary of the date of the issuance of a Special Permit, that such lease remains in full force and in effect and (y) no later than thirty (30) days prior to the expiration or other termination of such lease, to apply to the Planning Board for a modification of its Special Permit A3 which application shall provide for the required parking in another manner consistent with the requirements of this subsection 7.a.

- (B) Off-site parking in designated resident parking areas of public parking lots, provided that a resident parking permit program or the like is adopted by the Town, and provided that, as a condition of the issuance of the Special Permit A3, the applicant applies for and presents written evidence to the Planning Board and the Building Commissioner of approval by the Town of sufficient resident parking permits to comply with the parking requirements of this Section.

Provision of off-street parking in accordance with the requirements of this subsection (iv) may be satisfied by any combination of on-site parking and alternative parking options described herein, provided, however, that where, prior to the application for a Special Permit under this Section, sufficient off-street parking exists or may be reasonably constructed on-site to satisfy, in whole or in part, the parking requirements of this Section, the Planning Board shall consider the availability of such parking when considering the eligibility of the site, such parking shall be located on-site and shall not be eligible for relief under this subsection to allow for alternate parking options.

- (v) No newly-constructed parking shall front on a public way, except along Summer Street (Route 3A), Water Street, Station Street or the Station Street parking areas.
- (vi) For parcels which have opposite property lines along two streets or ways and for parcels with frontage on Summer Street (Route 3A), fully enclosed garage parking may be provided within the building at ground floor if such parking is accessed from the rear of the building, is not visible from the front of the building, and such building has a permitted commercial use at the front of the building. For purposes of this Section III-G, any portion of a building facing Main Street, South Street, North Street, or Summer Street shall be considered the front of a building.

- (vii) Notwithstanding any provision of Section V-A to the contrary, and except as specifically provided in this Section III-G, 7.a., off-street parking requirements for residential uses in a Commercial/Residential Building shall not be reduced nor waived by Special Permit or otherwise. In the event of a conflict between the provisions of Section V and this Section, the provisions of this Section shall control.
- b. Off-Street Parking Requirements for Certain Non-Residential Uses
The reduction in off-street parking requirements for Business A District set forth in Section V-A, 2 shall not apply to uses under Section III-A, 4.10 and Section III-A, 4.11 on the ground floor; provided, however, that this subsection 7.b. shall not apply to any Pre-Existing Use under Section III-G, 4.b(ii).
- c. Special Permit A3 for Waivers from Off-Street Parking Requirements
The Planning Board may approve an application for a Special Permit A3 to waive strict adherence to the requirements of this Section III-G, 7 and applicable provisions of Section V-A if it finds such application meets the following criteria:
- (i) Satisfactory demonstration of parking adequacy as evidenced by the results of a parking study conducted pursuant to the standards of the Institute of Transportation Engineers (ITE) and the Urban Land Institute (ULI) prepared by a Professional Engineer duly licensed in the Commonwealth of Massachusetts with demonstrated experience in the Fields of Traffic Engineering and Transportation Planning, and concurrence with said results by the Planning Board's review consultant. The parking study baseline shall be consistent with the methodology and format implemented as a part of the Town's "2008 Downtown Hingham Parking Study" and associated shared parking model, as the same may be updated or amended from time to time. Upon written request of the applicant, the Planning Board may waive the above submittal requirement if deemed by the Planning Board to be not necessary for its review of the application.
 - (ii) Such relief will promote the goal of preserving and enhancing the Downtown as a mixed-use, pedestrian-oriented local shopping and business district and is consistent with the purpose and objectives of the Overlay District;
 - (iii) The maximum number of off-street parking spaces reasonably achievable on the premises has been provided; and
 - (iv) It is not practical to meet the applicable standards of this Section 7 and Section V-A and a waiver of these regulations will not (A) result in or worsen parking or traffic problems, or adversely affect pedestrian safety, on-site or on the surrounding streets or (B) adversely affect the value of abutting lands and buildings.

III-H. Hingham Harbor Overlay District

1. Purpose

To promote access to and the use and enjoyment of the land and water along Hingham's inner harbor, while protecting and enhancing its cultural, scenic and natural character.

2. Objectives:

- a. To provide for a variety of land and water based recreational uses, both passive and active, including pedestrian access along the waterfront and access to water uses such as swimming, pleasure boating and kayaking.
- b. To provide appropriate public facilities including harbor master facilities, parking and restrooms;
- c. To promote cooperation and a harmony of uses between privately and publicly owned parcels, including the dimensional and aesthetic design of structures on such parcels;
- d. To promote and enhance connections between Downtown Hingham and Hingham's inner harbor.

3. Applicability

The Hingham Harbor Overlay District will include those parcels of land located along the portion of Hingham's inner harbor that extend from the northwesterly boundary of the parcel commonly known as Hingham Bathing Beach to the southeasterly boundary of the parcel commonly known as Steamboat Wharf, more particularly described as the following: Assessors Map 39, Lot 8; Map 50, Lots 49, 50 and 51; and Map 51, Lots 1, 2, 3, 4, 5, 58 and 59.

4. Definitions

The following defined terms shall apply to this Section III-H. Other capitalized terms used in this Section and not otherwise defined herein shall have the same meanings ascribed to such terms in Section VI of this By-Law.

Marina – For the purposes of the underlying Official and Open Space parcels within this Overlay District, a marina shall constitute a berthing area comprised of slips, piers or attached floats.

Snack Stand – Within this Overlay District, a counter accessible from the outside of a building for the sale of non-alcoholic beverages and food and providing no indoor seating, which snack stand shall be accessory to the Water Dependent Use(s) of the lot on which it is located and not intended as a primary use. When determining parking required for the lot, the Snack Stand use may be considered under either a shared parking analysis or as a complementary use which is not deemed to create a parking demand separate from, or in addition to, the primary Water Dependent Use(s) on the lot.

Uses Accessory to a Water Dependent Use – The following uses are deemed to be accessory to a primary Water Dependent Use:

- a. offices primarily providing services to a Water Dependent Use (such as harbormaster, other public safety, marina management or life guard offices), and related indoor storage;
- b. public restrooms, including bathhouses; and
- c. Snack Stands

Water Dependent Use – Each of the following uses shall be deemed a water dependent use for the purposes of this Section III-E:

- a. marinas, whether privately or publicly owned or operated;
- b. public boat basins (also referred to as the public mooring field);
- c. other public or private commercial or recreational boating facilities, such as a sailing club, rowing club and/or other organized boating facility. A designated public launch area which allows the launching by an individual of a vessel from a trailer or "car-top" for day-use shall not constitute an organized boating facility;
- d. public facilities for fishing, swimming, and boat launching; and
- e. parks, esplanades, boardwalks, and other pedestrian facilities that promote use and enjoyment of the water by the general public and are located at or near the water's edge.

5. Permitted and Prohibited Uses

- a. The permitted uses and uses allowed by Special Permit, as set forth in the Section III-A, Schedule of Uses, where the underlying zoning district is Official and Open Space, shall be permitted or allowed as applicable, in the Overlay District, except as set forth in this subsection 5.a. and in subsections 5.c. and 5.d. below:
 - (i) The uses allowed under Section III-A, 3.5 (Public buildings and premises for government use), shall only be permitted as herein provided:
 - (A) Permitted – The uses described in subsections a., b., d. and e. of the above definition of Water Dependent Uses, provided, however, that public buildings supporting such Water Dependent Uses shall require a Special Permit A2 as provided in subsection b. below.
 - (B) Special Permit A2 –
 - Uses described in subsection c. of the above definition of Water Dependent Uses

- Buildings supporting a Water Dependent Use which house Uses Accessory to a Water Dependent Use
 - b. The permitted uses and uses allowed by Special Permit, as set forth in the Section III-A, Schedule of Uses, where the underlying zoning district is Waterfront Business, shall be permitted or allowed, as applicable, in the Overlay District, except as set forth in this subsection 5.b. and in subsections 5.c. and 5.d. below:
 - (i) Special Permit A2 – A Snack Stand as an accessory use.
 - c. For all parcels within the Overlay District, the offsite parking provisions under Section V-A,2. are modified as follows:
 - (i) Upon the joint application by the record owner of each affected lot, the Planning Board may grant a Special Permit A3 to allow parking by employees, customers, or guests of a use operating on one lot within the Overlay District on an abutting lot within the Overlay District ("Abutting Lot"), provided that (A) service are not performed at the parking area and (B) the Planning Board makes a Finding that such parking use will not result in or worsen parking problems on the Abutting Lot.
 - d. The winter storage of floats servicing uses within the Overlay District is permitted
 - (i) provided such storage does not reduce the required parking available for the uses on the lot during the period of such storage, and (ii) subject to any rules or regulations promulgated by the Harbormaster related to float storage.
 - e. Seawalls, embankments or other coastal defense structures are permitted uses within the Overlay District, subject to the requirements of Section III-C.
 - f. The following uses are prohibited in the Overlay District:
Personal wireless communications towers or antennae, except as may be required for public safety or marina operations, provided that such public safety and marina communications antennae shall be building mounted.
6. Dimensional Requirements
- a. Where the underlying zoning district is Official and Open Space, the requirements of Section IV-A shall apply, except as follows:
 - (i) The maximum height of buildings shall be reduced from 35 feet to the height set forth in subsection 6.b.(ii) below; and
 - (ii) The minimum rear yard along the waterfront shall be 10 feet from the existing sea wall or, if none, from the mean high water mark.
 - b. Special Permit A3 for Waivers from IV-A Schedule of Dimensional Requirements. The Planning Board may grant a Special Permit A3 to waive strict adherence to the requirements of Section IV-A where the underlying zoning is Waterfront Business District, if it finds that such application will promote the purpose and objectives of the Hingham Harbor Overlay District, subject to the following:

- (i) If the area or frontage of the lot existing as of January 1, 2010 does not meet the "minimum lot size" requirements set forth in Section IV-A, the "minimum lot size" requirement may be reduced to no smaller than the lot size or frontage, as applicable, of the lot on that date.
 - (ii) The "maximum height" of a building may be modified as follows: Maximum height shall not exceed two stories and 28 feet to the peak of the building, subject to the following:
 - (A) For the purposes of this Overlay District, the definition of Grade Plane in Section VI shall be modified by replacing the term "Finished Grade" with the term "Pre-Construction Grade".
 - (B) The maximum wall height of the building shall be 20 feet, inclusive of any elevated floors for flood resistant construction, it being the intention that the additional 8 feet of height shall be permitted only to the extent the design of the building includes a peaked roof.
 - (C) There shall be no occupiable space between the 20 foot maximum height and the peak. Any gables, cupolas, towers or related architectural features between the eave and the peak shall be for design purposes only.
 - (iii) The "minimum yard dimensions" may be modified as follows:
 - (A) Front: May be reduced to 20 feet – measured horizontally at right angles to the sideline of the public way.
 - (B) Side: The side yard requirement may be modified to allow in the aggregate a total of not less than 40 feet, provided that the side yard dimension on any one side may be no less than 10 feet. A yard space of not less than 5 feet wide on each side shall be maintained open and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high water line.
- c. Public access commencing at the boundary of the lot and extending along the side and rear yards of the lot to the next boundary of the lot, adjacent to the water's edge, shall be provided, in order to contribute to continuous public access along the waterfront.
- d. Notwithstanding the foregoing provisions of this subsection 6, seawalls, embankments or other coastal defense structures shall be exempt from the dimensional requirements of the Overlay District and Sections IV-A and IV-B, regardless of the underlying zoning district.

7. Design Review Criteria

- a. Applicability. Any building located within the Overlay District which (1) is subject to Site Plan Review or (2) requires a Building Permit and affects the exterior architectural features of a building or structure, shall be subject to Design Review by the Planning Board. The following alterations, unless subject to the requirements of Section IV-B, 6 shall be exempt from the requirements of this subsection:
 - (i) normal maintenance and repair of the building or structure; and/or
 - (ii) replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.
- b. Submittal Requirements. The Site Plan or Building Permit application shall include a narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used and depictions of proposed building elevations. For new or expanded buildings, the Planning Board may also require plans depicting the total square footage and dimensions of all buildings, the building elevations and perspective renderings, the exterior architectural features of the buildings, and the exterior materials to be used.
- c. Peer Review. In connection with its review of such work, the Planning Board may engage professional consultants, experts or assistance consistent with the provisions of Section I-F, 3 of the Zoning By-Law.
- d. Criteria. The Planning Board shall consider the architectural and aesthetic consistency of the proposed project with the historic character of the Town and the objectives of the Overlay District, taking into account the scale, massing, location of buildings on lot, roof slopes, street façade, fenestrations, exterior building materials, and similar factors. Design criteria shall include: (1) the shielding of rooftop mechanical equipment and (2) the preservation of vistas and view corridors to the extent practicable.

III-I. Nonconforming Conditions

- 1. General – Any structure or any use of a structure or land, lawfully existing at the time of the enactment or subsequent amendment of this By-Law, may be continued although such use and/or structure does not conform with the provisions of this By-Law, subject to the following conditions and exceptions:
 - a. Changes – Once changed to a conforming use or once the extent of a nonconforming use is reduced, no structure or land shall be permitted to revert to the prior or a new nonconforming use.
 - b. Restoration - A lawfully existing nonconforming building or structure may be repaired or reconstructed if damaged or destroyed by a casualty, including explosion, fire, storm or other natural disaster, but only if such repair or reconstruction is begun within two (2) years of such damage or destruction and diligently pursued to completion within two (2) years of commencement; provided however, that, except as may be allowed by the provisions of M.G.L. Chapter 40A, Section 6 or this Section III-I governing alterations of nonconforming structures,

the repaired or reconstructed structure shall be no less conforming than the structure that was so damaged or destroyed.

- c. Extension of Nonconforming Use – Except as may be allowed under M.G.L. Chapter 40A, Section 6, no increase in the extent of a nonconforming use of a structure or land may be made.
- d. Abandonment or Discontinuance
 - (i) A nonconforming use (other than Single-Family Dwelling or Two-Family Dwelling) that has been discontinued for a period of more than two (2) years, shall not be reestablished, and any future use shall conform to this By-law.
 - (ii) The nonconforming use of a building or structure as a Single-Family Dwelling or Two-Family Dwelling (and/or any Accessory Buildings related thereto) that has been discontinued for a period of more than four (4) years shall not be reestablished and any future use shall conform to this By-law, provided however, that the lawful nonconforming use of more than one Dwelling Unit within an existing Dwelling (that has not been discontinued or abandoned) shall not terminate unless such Dwelling has been converted to a Single-Family Dwelling with complete living facilities for only one household.
 - (iii) A nonconforming structure that has been discontinued (not used or occupied) for a period of more than two (2) years, or has been abandoned, may not be used or occupied for any use, with the following exceptions:
 - (A) This subsection (iii) shall not apply to and shall not prohibit the conforming use as a Single-Family Dwelling or a Two-Family Dwelling, as applicable, of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder; provided, however, that Section III-I, 2 shall not apply and any alteration, reconstruction, addition, extension, or structural change to such building or structure shall not extend the yard and/or height dimensional conditions that were nonconforming at the time the building or structure was abandoned or discontinued.
 - (B) Except as provided in the foregoing subsection (iii)(A), the conforming use of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder, may be permitted upon the issuance of a Special Permit A2; a building or structure reestablished pursuant to the above exceptions (iii)(A) or (iii)(B) shall no longer be considered nonconforming once a Building Permit or Special Permit has issued.
- e. Definitions - As used in this Section III-I:
 - (i) **Discontinuance** shall mean the actual cessation of any use or the non-use of any structure.

- (ii) A nonconforming use shall be deemed "**abandoned**" when it is discontinued for a period of at least six consecutive months, and customary equipment, furniture or supplies for the operation of such use have been removed, and at least one of the following apply:
 - (A) The building or structure in which such use was located is not actively marketed for sale or lease.
 - (B) Failure to provide for regular maintenance of the building or structure such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.
 - (iii) A nonconforming building or structure shall be deemed "abandoned" when it is no longer occupied for a conforming or lawfully nonconforming use for at least six consecutive months and one or more of the following apply:
 - (A) It is not actively marketed for sale or lease.
 - (B) Failure to provide for regular maintenance such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.
 - (C) Issuance of a written notice of an unsafe structure by the Building Commissioner and failure of the owner to rectify the unsafe condition in the manner and in the timeframe specified in such written notice.
2. For the purposes of this Section III-I, the alteration of, addition to, reconstruction of, extension of, or structural change in an existing nonconforming Single or Two-Family Dwelling shall not be considered the extension of a nonconforming use or structure provided that:
- a. the Single or Two-Family Dwelling conformed in all respects to the Zoning By-Law in existence at the time of its initial construction; and
 - b. the alteration of, addition to, reconstruction of, extension of, or structural change in the nonconforming Single or Two-Family Dwelling does not further reduce the minimum linear measurement of the existing nonconforming dimensions.

III-J. Accessory Uses

1. Accessory uses shall be those uses that are customarily incidental and clearly secondary to and located on the same lot with a principal use or on an adjoining lot under the same ownership and which are uses otherwise permitted in the zoning district in which they are proposed, provided, however, that:
 - a. Uses considered customarily incidental to residential uses shall be those accessory uses permitted under Section III-A, 1.8. Such uses shall also be permitted in buildings accessory to Single-Family and Two-Family Dwellings located in non-residential districts.

- b. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit A2, provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.
2. Additional Requirements for all Accessory Uses: Accessory uses shall not alter the character of the premises on which they are located or impair the neighborhood. Factors to be considered potential impairment to the neighborhood may include, but are not limited to the following:
 - a. Noise
 - b. Light and visual impacts
 - c. Odor
 - d. Sound
 - e. Traffic congestion and pedestrian safety, frequency of deliveries

SECTION IV.

Intensity Regulations

IV-A. Schedule of Dimensional Requirements

No lot shall be created or subdivided and no building or structure shall be built, enlarged or located in such manner as does not conform to the requirements set forth in Sections IV-A, IV-B and IV-C of this By-Law.

				maximum percentage which may be covered by all buildings			minimum yard dimensions			special requirements applicable to each district	
area	frontage	feet	stories	front	side	rear					
RESIDENCE DISTRICT A											
20,000 sq. ft.	125'	35'	2½		25'	15'	15'			6, 9, 10, 13, 16	
RESIDENCE DISTRICT B											
30,000 sq. ft.	150'	35'	2½		35'	20'	20'			6, 9, 13, 16	
RESIDENCE DISTRICT C											
40,000 sq. ft.	150'	35'	2½		50'	20'	20'			6, 9, 13, 16	
FLEXIBLE RESIDENTIAL DEVELOPMENT IN RESIDENCE DISTRICTS A THROUGH C											
All dimensional requirements for projects in Residence Districts A through C authorized by a Flexible Residential Development Special Permit under Section IV-D are set forth in Section IV-D.											
TOWN HOUSE IN RESIDENCE DISTRICT D											
5,000* sq. ft.	30' per dwelling unit	35'	2½	20%	50'	20'	20'			6, 9, 10, 11, 12, 16	
*Per dwelling unit of one bedroom. For each additional bedroom, an additional 1,000 square feet of lot area is required.											
RESIDENCE DISTRICT E											
30,000 sq. ft.	150'	35'	2½		35'	20'	20'			6, 9, 10, 16	

				maximum percentage which may be covered by all buildings		minimum yard dimensions		special requirements applicable to each district	
area	frontage	feet	stories	front	side	rear			
BUSINESS DISTRICT A									
	20'		3		10'			6, 9, 10	
BUSINESS DISTRICT B									
	100'		3		25%		40'	25'	25'
							40'	25'	25'
BUSINESS RECREATION DISTRICT									
10,000 sq. ft.	150'		2½		25%		40'	25'	25'
							40'	25'	25'
WATERFRONT BUSINESS DISTRICT *									
10,000 sq. ft.	100'		20'		25%		40'	25'	10'
* For Waterfront Business District, Yard dimensions are measured as follows:	Front:	Side:	Rear:	Front:	Side:	Rear:	Front:	Side:	Rear:
				40 feet - measured horizontally at right angles to the sideline of the public way.					
				25 feet - of which a yard space not less than 5 feet wide shall be maintained opened and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high waterline.					
				10 feet measured horizontally from the shoreline which shall be maintained open and not parked upon along the entire length of the rear lot line.					
WATERFRONT RECREATION DISTRICT									
3 acres	150'	35'	3		20%		40'	25'	40'
							40'	25'	40'
INDUSTRIAL DISTRICT									
80,000 sq. ft.	200'		3		40% / floor area ratio of 0.35 permitted; 0.50 allowed by Special Permit A2		40'	25'	25'
							40'	25'	25'
MIXED-USE PROJECT IN INDUSTRIAL DISTRICT									
							1, 3, 6		
All dimensional requirements for projects in the Industrial District authorized by a Mixed-Use Special Permit under Section IV-G are set forth in Section IV-G.									

				maximum percentage which may be covered by all buildings			minimum yard dimensions		special requirements applicable to each district	
area	frontage	feet	stories		front	side	rear			
RETAIL GROUP IN INDUSTRIAL DISTRICT										
5 acres	300'	30'		30% / floor area ratio 0.60	40'	30'	30'	1, 2, 3, 4, 6, 7, 8		
INDUSTRIAL PARK DISTRICT										
2 acres	250'	40'		40% / floor area ratio 0.35 permitted; 0.45 allowed by Special Permit A2	35'	35'	50'	1, 2, 3, 6, 14		
RETAIL GROUP IN INDUSTRIAL PARK DISTRICT										
15 acres	500'	30'		20%	50'	50'	50'	1, 3, 4, 5, 6, 7, 8, 14		
OFFICE PARK DISTRICT										
5 acres	200'	35'		Floor area Ratio of 0.15	100'	50'	50'	5, 6, 14		
LIMITED INDUSTRIAL PARK DISTRICT										
2 acres	250'		30' not to exceed 2 stories	30% / floor area ratio of 0.35	35'	35'	50'	1, 2, 3, 6		
OFFICIAL AND OPEN SPACE DISTRICT										
	20'	35'		10%	40'	40'	40'	1, 2, 5, 6, 15		

IV-B. Special Requirements to Schedule of Dimensional Requirements

1. No building, structure, parking area or septic system shall be constructed within 100' of a residence district, except where the zoning district boundary is in a street, in which case the setback from said boundary shall be 50'. A natural or landscaped vegetative barrier as approved under Site Plan Review shall be retained or created and maintained within this setback.
2. A minimum of 15% of the area of each lot shall not be built upon, paved or parked upon, and shall be maintained either in its natural state or landscaped. Along the entire street frontage of each lot a green or landscaped strip not less than 15' wide shall be maintained in its natural state or landscaped with grass, trees and shrubs, not paved except for driveways, not parked upon and not built upon except for signs. The required 15% may include the 15' green strip.
3. Any yard space or area required to be kept open and unbuilt upon may, nevertheless, if otherwise lawful, be used for off-street automobile parking, or for outdoor storage of packaged articles, packaged supplies or packaged materials, provided any such outdoor storage space shall be effectively screened from view by some substantial means such as an ornamental wall an ornamental lattice or a dense planting. A green strip not less than thirty (30) feet wide on which to grow grass, bushes, flowers or trees, shall be maintained open and green, unbuilt upon, unused and unpaved and not parked upon, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.
4. Frontage specified shall be the minimum width to a depth of 200'.
5. A green yard space not less than twenty (20) feet wide shall be maintained open and green with grass, bushes, flowers or trees or any combination of them, along the entire length of each side lot line or rear lot line of such a lot and (except for entrance and exit driveways) along the entire street frontage of such lot, and such yard space shall not be built on nor paved nor used for automobile parking. Not less than 80% of the land area of such a lot shall remain open and unbuilt on, but such open space may be used for automobile off-street parking, driveways, sidewalks and store service yards, except that such use shall not be permitted in any part of the 20' wide green perimeter strip above specified. Notwithstanding the foregoing, a green yard space not less than fifty (50) feet wide shall be maintained open and green with grass, bushes, flowers, trees, or in an undisturbed natural condition, or any combination of the foregoing, along the entire length of each side lot line and rear lot line of such lot where such side lot line or rear lot line abuts a Residence A or Residence B or Residence C District.
6. Site Plan Review to the extent required pursuant to Section I-I.
7. Each free standing structure, regardless of use, shall be not less than 1500 sq. feet lot coverage gross horizontal dimension. Each structure may be divided into street floor retail occupancy units not smaller than 750 sq. feet each, or into business, professional or personal service occupancy units not smaller than 350 sq. feet each.
8. No more than two driveways of 26' width each shall be permitted on the total street frontage of each retail store group.
9. In all residence districts and Business District A, the front setback may be as near the street as the average of the buildings or structures in the adjoining lots. For a vacant lot, the front setback line shall be the minimum front setback required in the district.

10. In the case of land used for housing the elderly persons of low income, or persons of low and moderate income, pursuant to the provisions of Section III-A, 1.5, the following provisions shall apply:
 - a. There shall be no less than three thousand (3,000) square feet of lot area per dwelling unit.
 - b. No more than forty percent (40%) of the lot area shall be occupied by the buildings.
 - c. A green yard space, no less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees, or any combination thereof, along the entire length of each side lot line and rear lot line and (except for driveways) along the entire street frontage, and such green yard space shall not be built upon nor paved nor used for storage or for vehicle parking, but signs and fences not otherwise prohibited by law may be erected and maintained thereon.
 - d. There shall be a minimum distance of thirty (30) feet between all buildings on such land.
 - e. There shall be reserved sufficient areas to provide parking spaces for vehicles at the rate of one such space per dwelling unit. So much of said area or areas shall be paved as may be deemed necessary by the Board of Appeals. In making such determination, the Board of Appeals shall give due consideration to the location of the land, the probable number of vehicles parking thereon, the probable age, economic resources, and parking requirements of the occupants of such dwelling units, and such other factors as said Board may deem pertinent in each case. From time to time the Board of Appeals may, upon the petition of the Select Board, the Building Commissioner or the Planning Board, and after notice and hearing as provided by subsection 3 of Section I-D, determine the necessity for additional paving of such reserved area or areas and may order additional paving in accordance with such determination.
 11. No side yard is required where a dwelling unit shares a party wall with a building constructed at the same time.
 12. Not over 20% of the required minimum lot area may be met by land in the Floodplain Protection Overlay District.
 13. No portion of the minimum lot area may be met by land that is:
 - a. Wetlands as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;
 - b. Wetlands as defined by the Town of Hingham's Wetlands Protection By-Law;
 - c. Land subject to flooding as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act; or
 - d. Land within the Floodplain Protection Overlay District as defined by Section III-C of the Zoning By-Law of the Town of Hingham.

In addition, the required minimum lot area shall be contiguous.

14. Properties zoned Industrial Park or Office Park and contained within the South Hingham Development Overlay District are subject to the intensity regulations set forth in Section III-E, South Hingham Development Overlay District.
15. Contiguous parcels separately deeded to the Town shall be considered a single parcel in application of minimum yard dimensions.
16. In no event shall the Height of any residential Building be higher than thirty-five (35) feet measured from Grade Plane, and in no event shall the highest roof surface, peak or parapet be more than forty (40) feet above Finished Grade where it intersects the perimeter wall at any point. See also the Building Height Diagram in Annex "A".

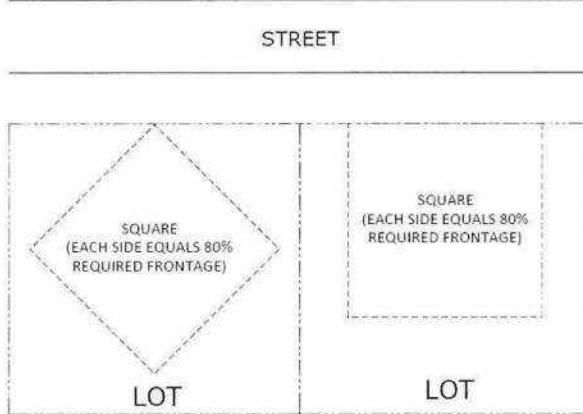
IV-C. General Intensity Provisions

1. Frontage

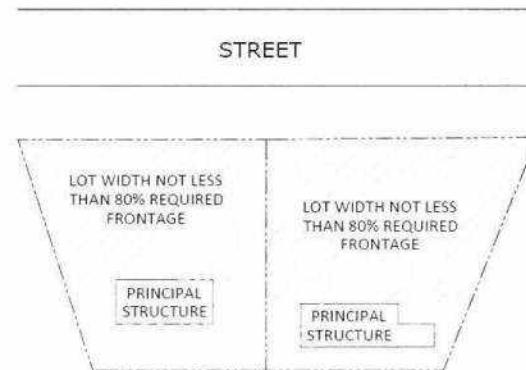
Lot frontage in all districts shall be measured at the street line, except that frontage shall be measured at the front setback line if the street is an arc of a curve with a radius of two hundred (200) feet or less. For this purpose, the setback line shall be the minimum front setback required in that district.

2. Lot Shape

- a. In addition to the required frontage and area, each lot shall be laid out so that a square with each side equal to eighty (80) percent of the required frontage for the zoning district in which it is located can be placed within the lot lines with at least one point on the front lot line.



- b. In addition, at no point between the front lot line or primary front lot line and the front wall of the principal structure shall the lot have a width of less than eighty (80) percent of the required frontage. Lot width is the horizontal distance between side lot lines, measured parallel to the lot frontage.



3. Location of Accessory Buildings

Accessory buildings shall not be located nearer the lot line than the minimum dimensions of the front, side, or rear yards and shall be no more than two stories and not exceed 30 feet in height.

4. Appurtenant Open Space

No yard or other open space required for a building by this By-Law shall, during the existence of such building, be occupied by or counted as open space for another building.

5. Density

Unless otherwise expressly permitted in this by-law, no more than one dwelling unit shall be located on any single lot.

6. Exempted Lots

a. Residential

A lot or parcel of land in a residential district having an area or frontage less than that required by this section may be developed for a single residential use provided that such lot or parcel complies with the specific exemptions of Section 6 of Chapter 40A of the Massachusetts General Laws.

b. All Other Districts

In non-residential districts, the lot area and lot frontage requirements shall not apply to any lot of less area or frontage already existing in a particular ownership as shown by plan or deed lawfully of record on or prior to the date of this By-Law.

7. Corner Lot and Clearance

A corner lot and any other lot abutting a street in more than one location shall maintain front yard setback requirements for each and every street. Within the area formed by the line of intersecting ways and a line joining points on such lines fifteen (15) feet distant from their point of intersection, or in the case of rounded corners, the point of intersection of their tangents, no building structure, fence, wall, planting, or other feature that would interfere with a clear and unobstructed view across the corner shall be maintained between a height of two and a half (2 1/2) feet and a height of eight (8) feet above the plane through their curb grades.

8. Projections
Nothing herein shall prevent the projection of steps, gutters, bay windows, terraces, outside chimneys, stoops, piazzas or porches not exceeding thirty (30) square feet in area, eaves, cornices, window sills or belt courses of the main structure or accessory buildings into any front, side or rear yard spaces; provided, however, that any device that supplies usable floor area to a structure shall not constitute a projection for the purpose of this By-Law.
9. Height Exceptions
Chimney, ventilators, elevators, mechanized or motorized equipment which is used to ventilate, heat or cool a building or structure, poles, spires, tanks, towers and skylights and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed, provided, however, that (a) no wireless communications tower or antenna shall be erected except in compliance with Section V-E of this By-Law, and (b) with respect to dwellings in residential districts, (i) the area of such projections where they intersect the height limit shall not exceed five percent of the horizontal plane of the roof area in the aggregate, measured at the uppermost full floor of the dwelling, and (ii) this provision shall not be construed to exempt a parapet, wall or railing from the height requirements set forth in Section IV-B, 16.
10. Fencing and Screening
In an Industrial or Business District, except as otherwise required by Special Requirement 3 of Section IV-B, Special Requirements to Schedule of Dimensional Requirements, the outdoor storage of goods, products, materials or equipment, if visible at normal eye level from a public way or from any point in an abutting residential district less than 500 feet away, shall be screened from view by an ornamental lattice, opaque fence, or sight-obscuring plantings or screenings (except retail goods when being offered for sale during business hours, vehicles offered for sale or stored by a licensed auto dealer and boats offered for sale, in storage, or under repair). Plantings shall be maintained in healthy growing condition, and fencing shall be maintained in good repair by the land owner.

IV-D. Flexible Residential Development (FRD) - Special Permit

1. Purposes
 - a. To encourage the permanent preservation of open space, water bodies and supplies, wetlands and other natural resources, and historical and archeological resources;
 - b. To preserve and enhance community character by allowing for greater flexibility, creativity and open space within residential developments;
 - c. To provide for a diversified housing stock, including Moderately-Sized Homes and Low or Moderate Income Housing;
 - d. To facilitate the construction and maintenance of housing, streets, utilities and public service facilities in an economical and efficient manner; and
 - e. To minimize the total amount of disturbance on the site.
2. Definitions
Capitalized terms used herein and not otherwise defined herein shall have the same meanings ascribed to such terms in Section VI of this By-Law.

Additional Dwelling Units

As defined in Section IV-D, 7.

Conventional Yield

The number of Single-Family Dwellings that would be permitted under Massachusetts General Laws Chapter 41, Sections 81K - 81GG (The Subdivision Control Law) and which could reasonably be expected to be developed in full conformance with applicable zoning, subdivision rules and regulations, wetland by-laws, Board of Health rules and regulations and all applicable rules and regulations of the Town of Hingham.

Existing Protected Open Space

Open space not located within the site which is protected in perpetuity by legal restriction or form of ownership (e.g., land which is under the control of the Conservation Commission, owned by a non-profit organization the principal purpose of which is the conservation of open space, or subject to a conservation restriction).

Flexible Residential Development (or "FRD")

An alternative development plan to a conventional subdivision which permits flexibility in the layout and design of a subdivision and Additional Dwelling Units in exchange for the preservation of a significant portion of the site as open space and the construction of diversified housing.

Low or Moderate Income Housing

Dwelling Units restricted for a period of not less than thirty (30) years to occupancy by persons or families who qualify as low or moderate income, as those terms are defined for this area by the Massachusetts Department of Housing and Community Development (DHCD) and which are affordable to such persons in accordance with applicable regulations of DHCD or the Department of Housing and Urban Development. For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as Low or Moderate Income Housing shall have the following minimum specifications:

	<u>Single Family Dwelling</u>	<u>Two-Family Dwelling</u>
Gross Floor Area:	1,800 sq. feet	2,400 SF
# Bedrooms	Two	4 (2 per dwelling unit)
Garage Spaces	One	2 (one per dwelling unit)

Moderately-Sized Home

For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as a Moderately-Sized Home shall have the following maximum specifications:

	<u>Single Family Dwelling</u>	<u>Two-Family Dwelling</u>
Gross Floor Area:	2,200 sq. feet	3,000 SF
# Bedrooms	Three	6 (3 per dwelling unit)
Garage Spaces	Two	4 (two per dwelling unit)

Open Space

Land within the site that is prohibited from development (except as specifically provided herein), and managed under the requirements set forth in Section IV-D, 8 hereof.

Unrestricted Dwelling Units

As defined in Section IV-D, 7.

3. Eligibility

Sites that meet the following criteria are eligible for a Special Permit A3:

- a. Sites containing a minimum of three (3) acres and a Conventional Yield of not less than three (3), provided, however, that no Additional Dwelling Units (as defined in Section IV-D, 7) shall be permitted on sites containing less than five acres.
- b. Sites located in Residential Districts A, B and C.
- c. Sites with the proposed use permitted in the District in which the site is located, except that if the proposed FRD includes Low or Moderate Income Housing, Two-Family Dwellings shall also be permitted instead of, or in combination with, Single-Family Dwellings.
- d. Sites consisting of a single parcel or two or more contiguous parcels. For the purposes of this Section IV-D, parcels physically separated by a street or way (other than a Major Street as defined in Section 4 of the Planning Board Rules and Regulations) may be considered contiguous parcels, provided that (i) the parcels on each side of such street or way are each at least three (3) acres and (ii) the frontage of the parcels on such street or way shall be parallel for a distance of not less than fifty (50) feet.
- e. The site may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, provided, however, that a FRD may also be permitted on a site intended as a condominium and not so divided or subdivided.

4. Application and Review Procedure

The review procedure for a Flexible Residential Development (FRD) consists of two steps:

- a. Preliminary Flexible Residential Development Plan ("Preliminary FRD Plan") review; and
- b. Definitive Flexible Residential Development Plan ("Definitive Plan") review.

In the first step, the applicant shall file a Preliminary FRD Plan, as described below, which describes the overall development proposal for the site. The Planning Board shall grant or deny a Special Permit A3 based on the information contained in the Preliminary FRD Plan application.

If the Special Permit A3 is granted, the applicant shall submit a Definitive Plan, as described below, based on the Preliminary FRD Plan. The Planning Board shall then review the Definitive Plan as a definitive subdivision plan. Two separate public hearings shall be held, one for the Special Permit and one for the Definitive Plan.

The applicant is encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite all relevant boards and committees to attend, including but not limited to the Conservation Commission, Board of Health and, if applicable, Sewer Commission, Historic Districts Commission and Housing Partnership Committee. The purpose of the pre-application hearing is to minimize the applicant's cost of engineering and other technical experts, and to obtain the input and direction of the Planning Board prior to filing the application. At the pre-application review the applicant shall outline the proposed FRD and seek preliminary

feedback from the Planning Board and/or its technical experts. The applicant is also encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review. If such a site visit is requested, all applicable boards and committees will also be notified and invited to attend.

5. Preliminary Flexible Residential Development Plan Review

- a. An application for Preliminary FRD Plan review shall include the following:
 - (i) Site Context Map. A map illustrating the larger context in which the site is located, including associated or adjacent neighborhoods, natural features, roads and zoning districts.
 - (ii) Existing Conditions/Site Analysis Map. Based on existing data sources and field inspection, this map should contain all zoning classifications applicable to the site, all physical and natural features including water bodies, streams, wetlands, areas of greater than 40% slope, vistas, geological and topographical features, topography at 2' intervals, unique vegetation, historic features, large boulders or ledge outcroppings, wooded and open areas, trees with a caliper of 6 inches or greater and stone walls.
 - (iii) Preliminary Plan. The preliminary development plan, prepared by a professional landscape architect registered in the Commonwealth of Massachusetts, and/or a professional civil engineer registered in the Commonwealth of Massachusetts, which complies with the requirements of Section 3, B (1) and (2) of the Planning Board Rules and Regulations. The Planning Board may waive specific requirements relative to the content of the Preliminary Plan as the Planning Board deems appropriate. The Preliminary Plan shall also identify the proposed location and size of structures to be built on the site.
 - (iv) Conventional Yield Sketch Plan. A sketch plan showing the Conventional Yield.
- b. The applicant shall file the Preliminary FRD Plan with the Town Clerk and Planning Board, and submit copies of the Preliminary FRD Plan to the Board of Health, Conservation Commission, Fire Department, and Department of Public Works. The applicant shall also submit copies of the Preliminary FRD Plan to such other Town boards and agencies as the Planning Board shall request. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded such copies to the Town boards and agencies as provided in this subsection b., and as may be requested by the Planning Board.
- c. The Town boards and agencies receiving copies of the Preliminary FRD Plan shall submit written recommendations to the Planning Board within 35 days after filing of the Preliminary FRD Plan. Failure to report to the Planning Board within 35 days shall be deemed a lack of objection to the application. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the Preliminary FRD Plan during the review period.

- d. The Planning Board, within 60 days or such further time as may be agreed upon in writing by the applicant, may grant a Special Permit A3 if it determines that the proposed FRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan, promotes the preservation of Open Space and natural resources, reduces the total amount of disturbance on the site, facilitates the efficient delivery of services and complies with the requirements of this Section IV-D.
 - e. All Open Space shall be dedicated at the time the Special Permit holder commences construction under a Building Permit.
6. Definitive Flexible Residential Development Review
- a. If the Special Permit A3 is granted by the Planning Board, the applicant shall file with the Planning Board an application for a Definitive Plan in accordance with the Rules and Regulations of the Planning Board relative to the submission of a Definitive Plan (Section 3, C). In addition, the applicant shall submit a list of all waivers requested from the Planning Board Rules and Regulations.
 - b. The Planning Board shall review the Definitive Plan to determine its compliance with the Subdivision Control Law, and hold a public hearing as required by Massachusetts General Laws Chapter 41, Section 81T. The Special Permit A3 shall be reconsidered if there is a substantial variation between the Definitive Plan and the Preliminary FRD Plan. A substantial variation shall be defined as an increase in the number of Lots or Dwelling Units, a decrease in the amount of Open Space and/or a change in the development pattern which adversely affects natural landscape features and Open Space, or surrounding residential properties. If the Planning Board finds that a substantial variation exists, it may reopen the Special Permit A3 public hearing to review the modifications to the Preliminary FRD Plan and, based on its Findings, may approve, modify or revoke the Special Permit A3.
7. Density
- The total number of Dwelling Units permitted on the site shall not exceed the Conventional Yield, provided that, if the Planning Board makes a Finding that the proposed development complies with all of the provisions of this Section IV-D, the total number of Dwelling Units permitted on this site shall be the greater of (i) one hundred thirty five percent (135%) of the Conventional Yield (rounded to the nearest whole number) or (ii) the Conventional Yield plus two (2). The number of Dwelling Units permitted in excess of the Conventional Yield are referred to herein as the "Additional Dwelling Units".
- a. Subject to d. through f. below, at least one third (1/3) of the Additional Dwelling Units shall be Low or Moderate Income Housing;
 - b. Subject to d. through f. below, at least one-third (1/3) of the Additional Dwelling Units shall be Moderately-Sized Homes;
 - c. The remaining Additional Dwelling Units shall be referred to herein as "Unrestricted Dwelling Units";
 - d. If the total number of Additional Dwelling Units is less than three (3), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as an Unrestricted Dwelling Unit;

- e. If the total number of Additional Dwelling Units is a number which is not evenly divisible by the number three (3), the number of Additional Dwelling Units represented by the remainder shall be designated as follows: (i) if the remainder is one (1), such Additional Dwelling Unit shall be designated a Moderately-Sized Home, and (ii) if the remainder is two (2), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as either a Moderately-Sized Home or an Unrestricted Dwelling Unit;
 - f. The Additional Dwelling Units shall be allocated such that the number of Additional Dwelling Units designated as Unrestricted Dwelling Units shall not exceed the number designated as Low or Moderate Income Housing;
 - g. Low or Moderate Income Housing and Moderately-Sized Homes shall not be segregated on the site, and shall be designed in the same architectural style and constructed with building materials comparable to any Unrestricted Dwelling Units constructed on the site;
 - h. If the proposed development consists of a mix of Single-Family Dwellings and Two-Family Dwellings, the Low or Moderate Income Housing and the Moderately-Sized Homes (i) shall be developed with a consistent mix of such Single-Family Dwellings and Two-Family Dwellings and (ii) must be evenly distributed among the Single-Family Dwellings and the Two-Family Dwellings constructed on the site. In addition, the number of bedrooms in any Two-Family Dwellings which are designated as Low or Moderate Income Housing shall mirror the number of bedrooms in the remaining Two-Family Dwellings (for example, if there are two market rate Two-Family Dwellings, one with two bedrooms and one with three bedrooms, then the corresponding Two-Family Dwellings designated as Low and Moderate Income Housing shall also contain two bedrooms and three bedrooms, respectively); and
 - i. It shall be a condition of the approval of a Definitive Plan that, prior to the issuance of a Building Permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. To the extent permitted by applicable law, local preference shall be given in the sale or rental of Low and Moderate Income Housing.
8. Open Space Requirements
The following Open Space requirements shall apply:
- a. A minimum of forty percent (40%) of the site shall be Open Space.
 - b. The Open Space, or any portions thereof, shall be conveyed to (i) the Town, (ii) a nonprofit organization, the principal purpose of which is the conservation of open space or (iii) a corporation, trust or homeowners' association (hereinafter, a "Trust") owned or to be owned by the owners of Dwelling Units within the site. In any case where Open Space is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall perpetually be kept in an open or natural state consistent with this Section of the By-Law.

- c. If a Trust is utilized to hold title to the Open Space, maintenance of such Open Space and any accessory facilities shall be permanently guaranteed by such Trust, which shall provide for mandatory assessments of maintenance expenses to each Dwelling Unit owner. The deed of trust or articles of incorporation shall include provisions designed to effect these obligations and to grant to the Town an easement to perform such maintenance obligations if the Trust fails to do so, along with the right to record a lien against the Dwelling Units for the collection of all costs associated with performing such maintenance obligations as well as the imposition of any applicable fees. Each individual deed shall incorporate such provisions specifically or by reference. The documents creating such Trust shall be submitted to the Planning Board for its approval and, upon Definitive Plan approval, shall be recorded.
- d. The percentage of Open Space that is wetlands (as defined under the Hingham Wetlands By-Law) shall not exceed the percentage of the entire site that is wetlands. For the purposes of this subsection 8.d., surface drainage systems, such as retention and detention ponds, shall be considered wetlands and may be located in the Open Space subject to the limitation of this subsection.
- e. The Open Space shall be contiguous and, when possible, should abut and give access to adjacent Existing Protected Open Space so as to help to create a system of protected Open Space. Open Space will be considered contiguous if connected by a street (other than a Major Street), way, walking or bicycle path or non-exclusive easement. Upon a Finding by the Planning Board that the quality of the Open Space preserved within the FRD shall be significantly increased by permitting noncontiguous areas of Open Space, such non-contiguous areas may be included within the total required Open Space.
- f. The Open Space shall be used for conservation, passive recreation, playground areas, outdoor education, agriculture, forestry, or a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to 5% of the Open Space to be paved or built upon for facilities accessory to the dedicated use or uses of such Open Space (such as pedestrian walks, bike paths and playground equipment). The Open Space shall not include land set aside for roads and/or parking uses.
- g. Subsurface wastewater and storm water management systems serving the FRD may be located within the Open Space, provided that a sufficient Open Space buffer exists to adequately screen the development from abutting properties in accordance with Section IV-D, 9.c. hereof.

9. Minimum Dimensional Requirements

- a. Where two or more lots are created, the minimum lot size will be determined through the Special Permit process.
- b. The following minimum dimensional requirements shall apply:
 - Maximum Height: 2 1/2 stories and 35 feet
 - Minimum Frontage: 50 feet associated with each detached dwelling

Minimum Front Yard Setback: 15 feet; provided that, for dwelling units without individual lots the Front Yard Setback shall be measured from the edge of the sidewalk or, if there is no sidewalk, from the edge of the paved roadway nearest the dwelling unit (the "Implied Front Lot Line").

Minimum Rear Yard Setback: 15 feet

Minimum Side Yard Setback: 15 feet (no side yard is required for a Two-Family Dwelling which shares a party wall on both sides).

Minimum Distance between detached principal structures on the same lot: 30 feet

- c. At least two (2) parking spaces per dwelling unit shall be provided in garages and/or dedicated driveways. At least 23 feet of depth from the edge of the sidewalk or, if there is no sidewalk, from the paved roadway nearest the dwelling unit shall be provided for parking in driveways, and in no case shall driveway parking spaces extend beyond the actual lot line or Implied Front Lot Line as determined in subsection 9.b., above. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.
 - d. There shall be an Open Space buffer along the perimeter of the site consisting of trees, shrubs, vegetation, and topographic features sufficient to screen the development from abutting properties and adjacent roadways. This buffer shall be not less than 100 feet in width along abutting properties and not less than 50 feet in width along adjacent roadways, and shall count towards the Open Space requirement. No buffer shall be required along roadways created as part of the FRD. No portion of the Open Space buffer shall be within the boundaries of any Lot. Upon a Finding by the Planning Board that a buffer of lesser width would be sufficient to screen and/or separate the FRD from the abutting properties or adjacent roadways, the buffer may be reduced. Upon a Finding of the Planning Board that the natural state of the buffer is insufficient to adequately separate and/or screen the site from abutting properties, additional trees, shrubs and/or plantings shall be required.
 - e. To the extent a specific provision of this Section IV-D is in conflict with any other provisions of this By-Law, the provisions of this Section IV-D shall control. Otherwise, all other provisions of this By-law and of Sections 4, 5 and 6 of the Planning Board Rules and Regulations shall apply to a Flexible Residential Development.
10. Additional Requirements
- a. Roadways and Lots shall be designed and located in such a manner as to maintain and preserve existing tree cover, natural topography and significant natural and cultural resources, to minimize cut and fill, and to preserve and enhance views to and from the site and the Dwelling Units.

- b. The 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.
- c. When site conditions permit, the use of "soft" (non-structural) storm water management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate shall be required.
- d. Walkways and bicycle paths shall be provided to link Dwelling Units with the Open Space and with any parking areas, recreation facilities and Existing Protected Open Space and paths and/or sidewalks on adjacent land where appropriate.
- e. No lot shown on a plan for which a Special Permit is granted under this Section IV-D may be further subdivided and a notation to this effect shall be shown on the plan.
- f. No Building Permit shall be issued for the construction or modification of any Moderately-Sized Home that would result in a violation of any of the maximum specifications set forth in the definition of Moderately-Sized Home.
- g. For Two-Family Dwellings, the exterior design of the structure shall maintain the appearance and character of a Single-Family Dwelling.

IV-E. Residential Multi-Unit Development

- 1. Town houses, garden apartments and apartment houses shall be subject to the following standards and conditions.
 - a. There shall be a minimum of 5 acres of land within any parcel to be developed for town houses, garden apartments or apartment houses.
 - b. The average number of dwelling units per acre in any development shall not exceed eight (8).
 - c. The shortest distance between any two structures shall not be less than 35 feet. Courts shall be completely open on one side. The Board of Appeals may waive the separation requirements if the design of the proposed development is benefited by closer spacing.
 - d. There shall be set aside, not to be built upon, unpaved, landscaped and/or left natural, with an acceptable balance of trees, shrubs and grass, site area equal to 2000 square feet per dwelling unit. The buffer area described in subsection f. below shall not be considered as living space in computing the 2000 sq. ft. of living space per dwelling unit.
 - e. In addition to the 2000 square feet of living space required in (d) above, 1000 square feet of open space per dwelling unit shall be provided, which may include open paved areas, and one-half the area of covered parking or garage areas.
 - f. There shall be provided a landscaped side or rear yard buffer area of at least 50 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen

- and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten feet.
- g. There shall be set aside, suitably prepared, protected and equipped for organized recreational activities, site areas equal to 300 square feet per dwelling unit, which are not to be included in the buffer area.
 - h. Each dwelling unit shall consist of at least one room, exclusive of hall, kitchen and bathroom, and there shall be at least 525 square feet of enclosed floor space for a one-room unit. For each additional room an additional 125 square feet shall be required.
 - i. Two parking spaces shall be provided for each dwelling unit. Such spaces shall be within 200 feet of the intended users. No parking shall be permitted within the buffer area. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall be determined during the Site Plan Review process and shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.
 - j. All dwelling units shall be connected to public sanitary sewer. The Board of Appeals may waive this requirement with respect to land in the former Hingham Naval Ammunition Depot to the extent that such land is not within the North Sewer District and the applicant makes a satisfactory showing that its proposed sewage disposal system will not have adverse ecological impact.
 - k. All utilities shall be underground.
 - l. No space below ground level shall be approved for dwelling purposes.
 - m. The placement, size, arrangement and use of access routes to public or private streets shall be adequate to serve residents and provide no hindrance to the safety of existing or proposed streets. Pedestrian walkways with all-weather surfacing may be required where the density of population or school bus routes make such advisable for convenience and safety. Street and parking lot grading, drainage and surfacing shall comply with the specifications of the Subdivision Rules and Regulations.
2. Each application for a Special Permit A2 for the town house, garden apartment and/or apartment house development shall be subject to the provisions of Section I-I, Site Plan Review, and to the extent not already included therein, to the following additional provisions:
- a. the Site Plan required in Section I-I shall be prepared by a registered engineer, landscape architect, or architect and shall be accompanied by four (4) prints of a complete development plan at a minimum scale 1" = 40' and by the plans and information required in subsections b. through h. below;
 - b. a sketch plan showing generally existing topography, existing vegetation and existing major structures within the site and within 500 feet of the boundaries of the site;

- c. a grading plan and, in a schematic manner, proposed utilities and drainage systems including water for fire protection and public sanitary and storm sewers;
 - d. a plan containing schematic renderings and table to show the extent and location of the proposed structures and, generally, the appearance of representative structures within the development, the number and type of units and the number and size of rooms per unit with proposed tolerances and the specific exterior material proposed to be used;
 - e. a sketch plan of all areas showing generally the location, types and sizes of trees and shrubs; the exterior lighting pattern to include description and location of lighting fixtures, and description, size and location of signs within the development;
 - f. a sketch plan illustrating the relationships on the site of the motor vehicle and pedestrian traffic patterns;
 - g. copies of any covenants and/or restrictions to be recorded before the Building Permit is issued to assure the development and maintenance of the property in substantial accordance with the complete development plan; and
 - h. such other information as the Board of Appeals may reasonably request to carry out the high standards of development contemplated by this Section.
3. Town houses, garden apartments and apartment houses shall be exempt from provisions of Section IV-C, 4.
4. The issuance of a Special Permit A2 for a town house, garden apartment or apartment house development shall be subject to the following provisions and procedures.
- a. The Board of Appeals may approve a development plan to be completed in stages. The Board of Appeals may grant approval limited to each such stage of development. Each stage shall conform to the standards of this Section and each shall be capable of independent existence without the completion of succeeding stages.
 - b. The development plan shall consist of those plans and other representations, tables, covenants, restrictions and conditions as may be determined by the Board of Appeals. Such development plan as approved by the Board of Appeals and bearing the signature of the Chair of the Board of Appeals shall be retained by the Board of Appeals, and copies of such development plan bearing the signature of the Chair of the Board of Appeals shall forthwith, upon approval, be filed by the Board with the Town Clerk, the Planning Board and the Building Commissioner. The foregoing requirements are in addition to and not in substitution for any applicable provision of statute. Upon the approval of a development plan, the Board of Appeals shall issue to the landowner a notice, certified by the Chair or Clerk, containing the name and address of the landowner, identifying the land affected and stating that approval has been granted which is set forth in the office of the Town Clerk. Such notice shall be recorded in the Plymouth County Registry of Deeds within ninety (90) days of the date of the Board of Appeals' decision. If such notice is not recorded within such ninety (90) days, such approval shall be void.

- c. No building or use permit shall be issued with respect to any building in any town house, garden apartment or apartment house development except in specific compliance with the approved filed development plan.
 - d. In order to insure compliance with the approved development plan, the developer shall cause the author or authors of the plan (i.e., designer, architect, engineer, site planner, etc.) or their successors to supervise and inspect the construction prior to inspections carried out by the Town.
 - e. No change in content in the approved development plan shall be effective until such change shall have been approved by the Board of Appeals and the change shall have been filed as provided in subsection b. above.
5. Affordable Units
- a. All Residential Multi-Family Developments, as defined in this Section IV-E shall include Low or Moderate Income Housing as defined in Section IV-D, provided that the minimum specifications shall be as set forth herein. With projects with six or less dwelling units per acre, at least ten percent (10%) of such units shall be Low and Moderate Income Housing. For projects with more than six dwelling units per acre, at least fifteen (15%) of such units shall be Low or Moderate Income Housing. In the event such percentage results in a fractional number, such number shall be rounded up.
 - b. Any Town House dwelling unit intended as Low or Moderate Income Housing shall have a minimum gross floor area of 1200 square feet. Any dwelling unit in a Garden Apartment or Apartment House development intended as Low or Moderate Income Housing shall have the minimum square footage set forth in subsection 1.h. hereof.
 - c. The number of studio, one, two, or three bedroom Low and Moderate Income dwelling units shall be in direct proportion to the such dwelling rate market units within the development (e.g., if 20% of the market rate dwelling units are two bedrooms, then 20% of the Low and Moderate Income Housing dwelling units must be two bedrooms).
 - d. Low or Moderate income Housing
 - (i) shall not be segregated on the site
 - (ii) shall be designed in the same architectural style and constructed with building materials comparable to any market dwelling units constructed on the site, and
 - (iii) shall be constructed simultaneously and in the same proportion as the construction of market rate dwelling units in the development; and
 - e. It shall be a condition of the approval of a Special Permit that, prior to the issuance of a Building Permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. Local preference shall be given in the sale or rental of Low and Moderate Income Housing to the extent permitted by applicable law.

The applicant shall cooperate in all respects, at applicant's sole cost and expense, with any Local Initiative Program application to be filed by the Town in connection with such development and such cooperation shall be a condition to the issuance of any certificate of occupancy for any dwelling unit within the development.

IV-F. Residential Multi-Unit Development in Residence District D

1. A Special Permit A2 for town house exception shall be subject to the following conditions:
 - a. Prior to the submission of an application for a Special Permit A2 from the Board of Appeals, the applicant shall submit to the Planning Board a development plan of the parcel of land which is to be the subject matter of such application.
 - b. Said parcel of land shall contain a minimum of 20 acres and shall be located in Residence District D.
 - c. Development of said parcel shall be subject to the provisions of Section I-I, Site Plan Review.
 - d. Yard dimensions, area and height requirements shall be as required for town houses in Section IV-A.
 - e. All utilities shall be underground.
 - f. Except as provided in subsection j. below, the maximum number of dwelling units that may be permitted on the parcel by grant of Special Permit shall be determined by the Board of Appeals in accordance with the following formula:

$$\begin{aligned}D &= (A - W) \text{ times } 0.9; \\D &= \text{The maximum number of dwelling units;} \\A &= \text{The number of acres in the parcel;} \\W &= \text{The number of acres of wet areas}\end{aligned}$$

(defined as water areas and other land in either of the following categories:

- (i) All lands within the Floodplain Protection Overlay District; and,
 - (ii) All lands being wetlands as defined by the Wetlands Protection Act, Chapter 131, Section 40, Massachusetts General Laws.)
- g. Any development hereunder shall be subject to and must comply with the provision of Section IV-E of this By-Law, except that the requirement of Section IV-E, 1.j. may be waived by the Board of Appeals if it makes the following determination:
 - (i) that no part of the parcel abuts a sanitary sewer line of sufficient capacity to serve the parcel; and,
 - (ii) that the parcel's subsurface characteristics are sufficient to absorb waste generated by the proposed development on the parcel without material ecological degradation. The Board of Appeals, as part of the application, may require the submission of such studies and reports relating to this issue, bearing such certification by a professional engineer, and in such form as may be satisfactory to it.

- h. No dwelling unit shall be erected or maintained, and except for reasonable common access way or ways to the parcel, no land may be paved within a strip of land one hundred (100) feet wide along then existing public ways, parks, streams or rivers upon which said parcel abuts nor along the property line of said parcel.
- i. No dwelling unit shall contain more than three bedrooms, and no more than 15% of the maximum number of dwelling units permitted on said parcel shall contain three bedrooms.
- j. The Board of Appeals, if so requested in the application may, but is not obligated to, permit an increase of one or more additional dwelling units on said parcel to the maximum extent stated below, for the reasons and in the manner hereinafter provided, and upon showing to the Board's satisfaction that the particular project, (including such additional units as requested in accordance with this subsection j., is of exceptional environmental economic, architectural and aesthetic benefit to the Town, and permits the municipal services without imposing an increased financial burden on its citizens, and so long as all of the following conditions, safeguards and limitations are met and fulfilled.
 - (i) Inclusive of the increase of one or more additional dwelling units, as provided in this subsection j., the total number of dwelling units on the parcel shall not exceed 1.2 times the number of acres in the parcel minus the number of acres of wet areas as defined in Section IV-F, 1.f. hereof. In the event that application of this formula results in a figure which contains a fraction, then the maximum number of dwelling units permitted shall be the closest whole number to the figure obtained.
 - (ii) Any additional dwelling unit or units shall be under the same character as the units permitted under subsection f. above.
 - (iii) Without limitation upon the power of the Board of Appeals provided under the Massachusetts General Laws or elsewhere in this By-Law, the power to condition any approval of an increase of one or more additional dwelling units up to the maximum number allowed under subsection j.(i) hereof may be conditioned upon any or all of the following:
 - (A) the submission of the reports, studies and other data referred to in subsection j.(iii) above, in the form and substance and with the certification and verification as required by the Board;
 - (B) completion of the project in accordance with the plans and specifications submitted to and approved by the Board, except for any non-material deviation; and
 - (C) execution, delivery and recording of such covenants, agreements and instruments running with the land and binding upon the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board of Appeals may require, and in form and substance satisfactory to it, in order to insure adherence to the development plan, to assure the continued compliance with the terms and conditions of the Special Permit issued hereunder, to insure maintenance of the project throughout its useful life, and, in the case of a condominium

project, the execution, delivery and recording of condominium documents in form and substance satisfactory to the Board of Appeals.

- k. To the extent that a specific provision of this Section IV-F, 1 is in conflict with a provision of Section IV-E, this Section IV-F, 1 shall control.
 - l. In addition to the requirements of Sections IV-F 1.a., IV-E and I-I, any application pursuant to this Section IV-F shall include the following:
 - (i) detailed plans for the project, including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board of Appeals deems desirable in order to assist it in making its determination;
 - (ii) data, satisfactory to the Board of Appeals, as to the applicant's financial and professional capacity to complete the project in accordance with the plans and specifications, and the applicant's capacity to maintain the project throughout its useful life;
 - (iii) in the event that the application seeks waiver of the requirement of Section IV-E, 1.j., studies and reports relating to the capacity of the parcel to absorb waste generated by the parcel without material ecological degradation, bearing such certification by a registered professional engineer and in such form as may be satisfactory to the Board of Appeals;
 - (iv) traffic and/or utility reports or studies containing such professional certification and/or verification as may be required by the Board of Appeals; and
 - (v) any and all other information, documents, studies, reports and similar data with respect to the project which the Board of Appeals may require, in form acceptable to it, including such financial data and projections as the Board deems satisfactory, in order that the Board may make the determinations required under this Section.
2. **Open Land**
All land shown on a plan for which a Special Permit A2 is granted under this Section IV-F which is not included in building lots or rights-of-way shall be open land.
- a. The total area of open land shall be not less than 10,000 square feet per dwelling unit and shall be in one or more parcels of not less than 40,000 square feet each.
 - b. All open land shall have access from a public way.

- c. The amount, ownership and use of open land shall be as required in Section IV-D, 8.

IV-G. Mixed-Use Special Permit in Industrial District

1. General

In order to permit a mixture of retail, residential, open space, general commercial, limited industrial and office uses, and a variety of building types, tracts of land within the Industrial District may be developed under a Special Permit granted by the Board of Appeals as herein defined and limited.

2. Special Permit Authority

The Board of Appeals (Board) may grant a Special Permit for construction of a mixed-use project in the Industrial District. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9 and to regulations which the Board may adopt for carrying out its requirements hereunder.

- a. Review Board - The Planning Board shall function as a review board to review each proposed mixed-use permit.

b. Purpose

The purpose of the mixed-use Special Permit is to provide for a mixture of residential, open space, retail, general commercial and limited industrial uses within an Industrial District in order to foster greater opportunity for the construction of quality developments on large tracts of land by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage is shown to be for the public good and:

- (i) will improve the physical and aesthetic qualities of the Industrial District and improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment; and
- (ii) is consistent with the objectives of the Zoning By-Law.

3. Review Procedure for Mixed Use Special Permit Applications

The review procedure for a mixed use Special Permit consists of three steps:

- (1) a pre-application conference;
- (2) submission by the applicant and review by the Planning Board of a Preliminary Plan for the proposed mixed-use development; and
- (3) submission by the applicant and review by both the Planning Board and the Board of Appeals of an application and final plan for a mixed-use Special Permit.

- a. Pre-Application Conference. Prior to the submission of an application for a mixed-use Special Permit, the applicant must confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

- b. Procedure for Preliminary Plan

- (i) The applicant shall file with the Town Clerk, at least seven (7) days before a regularly scheduled meeting of the Planning Board, the original and one (1) copy of the preliminary plan accompanied by the form entitled "Submission of Preliminary Plan Mixed-Uses". The applicant shall at the same time submit to the Planning Board eight (8) copies of the preliminary plan.
- (ii) A fee of \$100.00 (certified check) made out to the "Town of Hingham" shall accompany the submission of the preliminary plan to the Town Clerk.
- (iii) The applicant shall also, at the time the preliminary plan is filed, submit copies of the preliminary plan to the Hingham Highway Department, Board of Health, Fire Department, Conservation Commission, Harbor Development Committee, Tree and Park Department, Sewer Commission, Industrial and Development Commission, Light Board, Water Company and to the consulting engineer of the Planning Board. The applicant shall also submit copies of the preliminary plan to such other Town boards and agencies as the Planning Board deems appropriate, at such time and to such Town boards and agencies as the Planning Board shall in writing state to the applicant. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded copies of the preliminary plan to the Town boards and agencies as provided in this subsection and in any written request by the Planning Board that copies be submitted to other Town boards and agencies.
- (iv) The applicant shall meet with the Planning Board to discuss the preliminary plan.
- (v) The Town boards and agencies receiving copies of the preliminary plan shall submit to the Planning Board written recommendations on the preliminary plan within 35 days after filing of the preliminary plan. Failure to report to the Planning Board within 35 days shall be deemed lack of objection to the application.
- (vi) The applicant is encouraged to meet with the Town boards and agencies receiving copies of the preliminary plan during the review period.
- (vii) The Planning Board within 45 days from filing of the preliminary plan shall review and determine whether the proposed project is consistent with the development of the Town and this By-Law. The Planning Board may suggest modifications and changes to the development described in the preliminary plan and shall make a written report of its recommendations to guide the applicant in the preparation of the final plan. The written report of the Planning Board shall be filed in the Town Clerk's office; after such filing the applicant may proceed to file its final plan.
- (viii) If the Planning Board fails to file its written report within 45 days after filing of the preliminary plan, the applicant may proceed to file its final plan.

4. Contents of Preliminary Plan

A preliminary plan shall comprise the graphic and narrative materials described below.

- a. Graphic materials shall include plans of sufficient number, character and clarity to show the proposed development and the existing conditions on the site. Such graphic materials shall show at least:
 - (i) boundaries of the proposed mixed-use parcel, north arrow, date, scale, legend, and title "Preliminary Plan: Mixed Use", the name or names of applicants and engineer or designer;
 - (ii) names of all abutters as defined in Massachusetts General Laws Chapter 40A, Section 11, existing site conditions, proposed land uses and improvements, and approximate location and width of all adjacent streets;
 - (iii) existing and proposed lines of streets, ways, utility and all easements, and any public areas within or next to the parcel;
 - (iv) the approximate boundary lines of existing and proposed lots with appropriate areas and dimensions;
 - (v) the proposed system of drainage, including adjacent existing natural waterways;
 - (vi) the existing and proposed topography of the site at five foot or smaller contour intervals;
 - (vii) existing and proposed buildings, significant structures and proposed open space and proposed site amenities, and proposed circulation patterns; and
 - (viii) an analysis of the natural features of the site, including wetlands, flood plain, slopes over 10%, soil conditions and other features requested by the Planning Board or required by any regulation of the Board.
- b. Written materials shall include the following:
 - (i) a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;
 - (ii) a description of the neighborhood in which the parcel lies, including utilities and other public facilities and the general impact of the proposed mixed use upon them; and
 - (iii) a summary of environmental concerns.

5. Submission of Final Plan

- a. The applicant shall file the original application for a mixed use Special Permit and the original of the final plan (which plan shall comply with the substantive Rules and Regulations of the Planning Board), together with one (1) copy of those materials, with the Town Clerk. The applicant shall also submit to the Planning Board and to those boards and agencies set forth in subsection 3.b.(iii) of this Section at the time the application is filed with the Town Clerk, a copy of the application and the final plan. The applicant shall also submit an application for Site Plan Review under Section I-I of this By-Law.

- b. The applicant shall file with the Town Clerk and submit to the Planning Board a transmittal letter certifying that it has forwarded copies of the final plan to the boards and agencies as provided.
- c. The Town boards and agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the application and final plan within 30 days of the filing of the transmittal letter certifying that copies of the final plan have been forwarded. Failure to report to the Planning Board within such 30 days shall be deemed lack of objection to the application.
- d. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the final plan during the review period.
- e. Within 50 days of the filing of the final plan with the Town Clerk, the Planning Board shall submit to the Board, accompanied by the written recommendations of the other Town boards and agencies described in subsection 3.b.(iii), a written report discussing the consistency of the proposed development with subsection 2.b. and the Rules and Regulations of the Planning Board. Copies of such written report shall also be mailed to the applicant and filed with the Town Clerk at the time it is submitted to the Board. Failure by the Planning Board to file such written report with the Town Clerk within 50 days shall be deemed a Finding that the final plans are consistent with the By-Law.
- f. The Board upon receipt of the report of the Planning Board, but, in any case, within 65 days of the filing of the final plan with the Town Clerk, shall hold a public hearing, notice of which shall be given in the manner and to the parties provided in Section I-D, 3 of this By-Law and Massachusetts General Laws Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.
- g. The Board shall, within 90 days following the public hearing, issue a written decision setting forth the reason or reasons for its decision or actions. Such written decision may provide that the application is approved as submitted, is approved subject to modifications or conditions, or is denied. A copy of the Board's decision shall be filed within fourteen days with the Town Clerk and shall be mailed forthwith to the applicant. Failure by the Board to issue a written decision taking final action on the application within 90 days following the public hearing shall be deemed to be a grant of the application and the Town Clerk shall issue forthwith, upon request, a certificate of such failure to act.
- h. Approval of a Special Permit for a mixed-use shall require a unanimous vote of the Board.
- i. The final plan, as approved by the Board, shall be filed with the Town Clerk and recorded with the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, as appropriate.
- j. If the application is denied, the developer shall not submit an application for substantially the same project for two years, except as provided under Massachusetts General Laws Chapter 40A, Section 16.
- k. Special Permits granted under this Section shall lapse in two years, excluding time required to pursue or await the determination of an appeal from the grant thereof,

if a substantial use has not sooner commenced or if construction has not been begun. The Board may grant an extension for good cause after a hearing, as provided in Massachusetts General Laws Chapter 40A, Section 11, and shall grant an extension if the delay has been caused by the need to seek other permits related to the development.

- I. No construction or reconstruction except as shown on the recorded final plan, or as provided in Section 12 hereof Amendments, shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded final plan and upon deeds to any property within the mixed-use parcel.

Following filing with the Hingham Town Clerk and recording with the Plymouth Registry District, a final plan which has been approved pursuant to the provisions of this By-Law shall be deemed to run with the land, as provided in this Section of the By-Law.

6. Contents of Final Plan

An application for a mixed-use Special Permit and a final plan (hereafter a final plan application) shall include an application for a mixed-use Special Permit under Massachusetts General Laws Chapter 40A and this By-Law, a Site Plan as specified in Section I-I of this By-Law, a final plan as specified in subsection a. below, and narrative materials as provided in subsection b. below. Plans submitted to the Board pursuant to Section I-I of this By-Law, where applicable, as part of the Site Plan Review shall be sufficient for submission under this subsection 6.

- a. Final plans shall include the following:

- (i) a scale of one inch equals forty feet unless another scale is requested and found suitable by the Planning Board;
- (ii) preparation by and bearing the seals of an appropriate registered professional engineer, registered architect, registered land surveyor, and registered landscape architect;
- (iii) the registered land surveyor indicated on the final plan shall certify the accuracy of the location of the buildings, setback and all other required dimensions, elevations and measurements;
- (iv) a utilities and drainage plan prepared and stamped by a registered professional engineer;
- (v) the scale, date, and north arrow;
- (vi) lot numbers, dimensions of lots in feet, size of lots in square feet, and width of abutting streets and ways;
- (vii) all easements within the lot and abutting thereon;
- (viii) the location of buildings existing or proposed for the development, which shall be prepared by and bear the seal of a registered architect as provided in subsection (ii), including the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective

renderings. Further, the depiction of materials and colors to be used shall be required;

- (ix) the location of existing wetlands, water bodies, wells, 100-year flood plain elevation, and other natural features requested by the Planning Board in their written report on the preliminary plan;
- (x) the distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot;
- (xi) percent of the building lot coverage;
- (xii) average finished grade of each building at the base of the building;
- (xiii) the elevation above average finished grade of the floor and ceiling of the lowest floor of each building;
- (xiv) existing and proposed contour lines at two-foot intervals;
- (xv) the uses proposed for the mixed-use development by building or part thereof, including proposed open space, recreation areas, or other amenities;
- (xvi) proposed provisions for parking;
- (xvii) height of all buildings, above average finished grade of abutting streets;
- (xviii) a landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size and species of plantings; and,
- (xix) a model or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevation as well as the general height, bulk and appearance of structures.

b. Narrative information concerning the development's impact on the community shall be provided to include, at a minimum, the following:

- (i) a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;
- (ii) a parking and traffic plan to be prepared by a traffic engineer. The traffic plan shall include information on the type and number of vehicles generated on average and peak periods of uses, the impact on traffic intersections, and major roads servicing the project area. The parking plan shall comply with Section V-A of the By-Law;
- (iii) a description of the neighborhood in which the tract lies and the impact of the development on the neighborhood and the community. Such description shall include information concerning the impact to local schools and school districts, the local tax base, housing supply, sewer, water, and

other utility systems, and other public facilities. When so requested by the Board's written report, other impact information shall be provided; and,

- (iv) evidence of ownership or interest in the land for which the Special Permit is sought.

7. **Minimum Requirements**

The mixed-use Special Permit shall be subject to the following conditions, and the Board of Appeals shall make a determination that the project meets the requirements of Massachusetts General Laws Chapter 40A, Section 9 and this mixed-use By-Law as to all the following conditions:

- a. the mixed use is consistent with the purpose set out in subsection 2.b. of this Section of the By-Law;
- b. the mixed use has received Site Plan Approval as described in Section I-G of the By-Law;
- c. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding on the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board may require, and in form and substance satisfactory to it, in order to insure adherence to the terms of the Special Permit issued hereunder;
- d. the prior approval of detailed plans for the project including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board deems desirable in order to assist it in making its determination;
- e. the Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this By-Law; and
- f. the Board may, in appropriate cases, impose a requirement that a motor vehicular and pedestrian easement for access and egress be provided from a street, road or other way over which the public has access, to the navigable waters bordering the tract of land.

8. **Permitted Uses and Intensity of Use**

a. **Residential - Commercial Option**

- (i) Retail uses as allowed by subsection 8.c. shall not exceed 6% of the total allowable project square footage.
- (ii) Residential use as allowed by subsection 8.c. shall not exceed 15% of the total allowable project square footage. Further, the number of three-bedroom units shall not exceed 15% of the total number of units

constructed. No residential units with over three bedrooms will be allowed in a mixed-use project.

- (iii) General commercial as allowed by subsection 8.c. shall comprise 79% or less of the total allowable project square footage.
- (iv) Limited industrial use as allowed by subsection 8.c. shall not exceed 20% of the total allowable project square footage. Further, for each square foot of limited industrial space developed, there shall be a reduction of one square foot of allowable general commercial activities.

b. Commercial Option

- (i) Retail uses as allowed by subsection 8.c. shall not exceed 6% of the total allowable project square footage.
- (ii) General commercial and limited industrial uses as allowed by subsection 8.c. may comprise up to 100% of total allowable project square footage. The specific mixture of general commercial and limited industrial uses and square footages shall be the prerogative of the developer, subject to design and Site Plan Review powers accorded to the Board of Appeals.

c. Permitted Uses

- (i) Residential:
Residential units, free standing or attached, are a permitted use; further, residential units may be allowed as part of mixed-use buildings.
- (ii) Retail:
Building materials and hardware
General merchandise
Food stores and bakeries
Liquor stores
Automotive, marine craft and aircraft accessories
Apparel and accessories
Furniture, home furnishings and home appliances
Eating and drinking establishments
Books and stationery
Drug stores
- (iii) General Commercial:
Dry goods and apparel (wholesale)
Electrical goods (wholesale)
Hardware, plumbing, heating and equipment supplies (wholesale)
Professional equipment and supplies (wholesale)
Service establishments, equipment and supplies (wholesale)
Drugs and allied products (wholesale)
Tobacco and tobacco products (wholesale)

- Beer, wine, and distilled alcoholic beverages (wholesale)
 - Paper and paper products (wholesale)
 - Furniture and home furnishings (wholesale)
 - Commercial fishing
 - General business office space
 - Laundering establishments
 - Personal services establishments
 - Research, development and testing services
 - Equipment rental services
 - Medical and dental health services, excluding those uses enumerated in subsection 3.8 of Section III-A, Schedule of Uses
 - Hotels, botels, and motels: are permitted as part of an originally approved final plan. A change in use from any other allowed use to a hotel, botel or motel requires a Special Permit from the Board. At a minimum, the applicant must show that the proposed new use meets all parking requirements and is consistent with the remaining land uses in the mixed-use.
 - Museums
 - Theaters and public assembly
 - Sales of marine craft and aircraft
 - Marinas including storage, sales and service of marine craft
 - Sports facilities, clubs, and similar activities
- (iv) Limited Industrial:
- Assembly and production
 - General warehousing (non-food items)
 - Apparel manufacture
 - Furniture manufacture
 - Professional, scientific and research facilities
- d. Other Uses:
- (i) Accessory uses as defined in Section III-I of the By-Law shall be permitted.
 - (ii) Uses not listed in subsection 8.c. (i) through (iv) may be permitted as part of the originally approved final plan if, in the judgment of the Board, the proposed use does not create health, traffic or safety problems for the remainder of the development area and abutter areas and is consistent with the remaining land uses in the mixed-use area.
 - (iii) Uses not listed in subsection 8.c. (i) through (iv), if requested after approval of the final plan, may be permitted as an amendment to the original mixed-use Special Permit as provided in subsection 12.
 - (iv) Open space as provided in subsection 9.c. below.

9. Dimensional Requirements

- a. Site Area Requirements - A minimum of 100 acres is required, and a maximum of 140 acres is permitted, within the Industrial District. The parcel shall be contiguous; however, a public transportation, utility, parking area or public ways shall not constitute a boundary or property line in computing the size of the contiguous parcel. The public transport, utility, parking area or public way, however, shall not be used in the calculation of the total project area.
- b. Floor Area Ratio - Maximum floor to area ratio shall be 1 to 1.
- c. Usable Open Space - The part or parts of land or structure within a mixed use which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, streets, alleys, required setbacks, waterways, and sidewalks; and shall be open and unobstructed. Trees, plantings, arbors, flagpoles, sculpture, fountains, covered walkways, and similar objects shall not be considered obstructions.

In all mixed-use developments that are new construction, at least 15% of the land shall be set aside as permanent usable open space, available to the project's users or the community. The required open space shall be subject to reasonable restrictions, covenants, and maintenance arrangements, imposed by and legally enforceable by the town to assure access and maintenance as provided in this section.
- d. Height - No building within the mixed-use development shall exceed 40 feet in height above the average finished grade of abutting properties, except that a 55-foot height may be allowed not closer than 200 feet from major highways such as Route 3A and any residential district. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities shall be nine feet, provided that this shall not apply to free standing parking garages.

10. Parking Requirements

- a. In all mixed-use developments adequate off-street parking shall be provided. The Board and the applicant shall have as a goal, for the purposes of defining adequate off-street parking for the development, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall make provision for complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in reductions in the parking requirements set out in this subsection of the By-Law. The parking may be at ground level, underground or in a parking garage. Parking garages can be free standing (in which case 55 feet is the allowed maximum height) or as part of buildings with commercial or residential purposes. If a free standing parking structure is proposed, the spaces must be assigned to specific uses at the time of the submission of the final plan.
- b. Parking requirements for the mixed-use development shall be in accordance with Section V-A of this By-Law.

11. Signs

Signs in mixed use development are permitted subject to the following requirements and standards.

- a. The proposed location and size of all signs must be indicated at the time of submission of the final plan.
- b. Dimensional controls for signs in mixed-use development are as follows:
 - (i) Development and Directory Signs
One free standing permanent development sign per entrance to the development shall be permitted not to exceed 50 square feet in area and 20 feet above ground level for the purpose of identifying the name of the development; provided, however, that not more than two such signs shall be permitted per total completed mixed-use development. As an alternative to one of the foregoing development signs, a directory-type sign not exceeding 80 square feet in area and 16 feet above ground level identifying the name of the development and any nonresidential use therein shall be permitted at the entrance which is the primary entrance for the nonresidential uses of the mixed-use district; provided, that any identification of an individual non-residential use shall not exceed 10% of the total area of such directory-type sign. Any such sign shall be within the mixed-use development and, where adjacent to any contiguous residential classification or use, shall be located at least 100 feet from the interior boundary between the mixed-use development and such residential classification or use.
 - (ii) Retail, General Commercial and Industrial Buildings
 - (A) Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade, and in no instance shall they exceed 100 square feet in total sign space.
 - (B) Parallel signs shall not extend more than one foot from the wall to which they are attached.
 - (C) Perpendicular signs shall not exceed six square feet in total size and the area of the perpendicular sign shall be deducted from the total parallel sign space allowed, thus reducing the total square footage allowed for a parallel sign.
 - (D) Perpendicular signs shall be affixed to the building wall by hardware that extends no more than eight inches from the building wall.
 - (iii) Residential Buildings
 - (A) Parallel signs affixed to the facade of the structure shall not exceed 30 square feet. Further, the location of said sign is limited to the first floor of the building. Awnings at entrances shall not be considered signs; however, the area used to denote the name of the building on the awning shall not exceed 30 square feet.
 - (B) Perpendicular signs are not allowed on residential buildings.

- (C) Free standing signs, located in an area clearly associated with the residential structure, are allowed. In no instance will the sign be more than 30 square feet or 6 feet in height or within 20 feet of a roadway.
 - (iv) Buildings Including Residential As Well As Retail, General Commercial or Industrial Uses (mixed use buildings)
 - (A) Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade. In no instance shall the sign area exceed 50 square feet. In calculating the 10% of building facade, the residential portions of the building must be excluded.
 - (B) Perpendicular signs are allowed on mixed-use buildings but shall not exceed six square feet in size, and shall be attached by hardware that does not extend from the wall more than eight inches. Further, the sign area used by perpendicular signs shall be subtracted from the allowable sign area for parallel signs.
 - (v) The prohibitions of Section V-B of this By-Law shall apply to the mixed use district.
12. Amendments - After approval of the mixed use Special Permit by the Board, the developer may seek amendments to the final plan as approved by the Board as provided below:
- a. Minor amendments shall be defined and administered in accordance with regulations adopted by the Board.
 - b. An application for a major amendment shall be filed with the Town Clerk. The applicant shall also submit copies of the application for a major amendment with the Building Commissioner, the Planning Board and the Board of Appeals. An application for a major amendment shall comply with subsections 5 and 6 of this Section.

SECTION V.

Special Regulations

V-A. Off-Street Parking Requirements

1. Introduction

Safe and convenient off-street parking shall be provided in all zoning districts in accordance with the requirements of this Section. The parking criteria are directed toward lessening congestion and securing safety from personal injury or property damage on public and private ways and abutting lands in the Town of Hingham. The Planning Board may impose appropriate time, use or dimensional conditions on the granting of such a Special Permit. Frequent parking of vehicles on a street adjacent to the premises shall be considered evidence of the inadequacy of the off-street spaces provided.

2. Off-Street Parking Space Requirements

Provision for off-street parking, drives, services, and display and loading areas shall be as specified below. Providing fewer or more parking spaces than required by this Section V-A, or deviating from the Design Standards specified by this Section V-A, requires a Special Permit A3. Applicants are encouraged not to construct parking in excess of the typical projected demand. These parking requirements shall be met for new construction, the enlargement or increase in gross floor area of an existing building, the development of a use not located in a building, or the change from one type of use to another. Parking areas for each land use shall be located on the same parcel unless a Special Permit A3 is granted by the Planning Board to permit parking on a contiguous parcel or on a parcel across the street. Within Business District A, parking space requirements are reduced by 25%.

<u>Use</u>	<u>Requirement</u>
<u>Residential Uses</u>	
Residential	2 spaces/unit
Elderly Residential	1 1/4 spaces/unit
Congregate or Assisted Living Facility	1 space/living unit
<u>Office/Retail/Commercial Uses</u>	
Retail Store and Service Business	5 spaces/1000 SF of GFA
Hotel/Motel	1 space/room plus 1 space/2 employees of 2 consecutive shifts
Bank	4 spaces /1000 SF of GFA
Medical & Dental Office	1 space/175 SF of GFA
Professional Office	5 spaces/1000 SF of GFA
General Business Office	3 1/2 spaces/1000 SF of GFA
Greenhouse, Nursery and Roadside Stand	1 space/1000 SF of display area whether indoors or outdoors
Marina	1 space per 2 berths
Motor Vehicle Service/Filling Station	2 spaces per bay or work station
<u>Eating Establishments</u>	
Sit-Down & Take-Out Restaurants	1 space/3 seats
Fast-Food Restaurant	30 spaces/1000 SF of GFA
<u>Institutional</u>	
Auditorium	1 space/3 seats
Clubs & Fraternal Lodges	1 space/3 seats in assembly area
Recreation	1 space/3 persons at capacity use
Nursing & Convalescent Home	1/4 space/bed plus 1 space/ employee of 2 consecutive shifts
Churches & Funeral Parlors	1 space/3 seats
<u>Industrial</u>	
Manufacturing	2 spaces/1000 SF of GFA
Research & Development	3 1/2 spaces/1000 SF of GFA
Warehousing & Wholesaling	1 space/1000 SF of GFA

(SF of GFA = square feet of gross floor area)

For uses not specifically covered by the Zoning By-Law, parking requirements shall be determined by Special Permit A3.

Notes:

- a. Where the structure, activity or any portion thereof is susceptible to more than one use, the parking requirement shall unless otherwise determined, be calculated according to that possible use requiring the greatest number of spaces.

- b. Parking areas serving a clearly defined mixture of uses that do not place coincident demands on the parking area may have the parking requirements reduced by 10 percent for lot size from 50 to 99 spaces, and by 15 percent if the lot size is 100 spaces or greater by Special Permit A3.
- c. When the computation of required parking spaces results in a requirement of a fractional space, any fraction of one-half or more shall require one space, but in any event not less than 1 space.
- d. No space reserved for any person, tenant, activity or purpose shall be included to satisfy the parking requirement with the following exceptions:
 - (i) Spaces reserved for "visitor" or "customer" parking; and
 - (ii) Spaces equipped with electric vehicle charging stations or infrastructure to make spaces compatible with future electric vehicle charging.

3. **Parking Dimension Requirements**

The following standard parking dimensions shall govern the design of parking areas. All uses other than Single-Family Dwelling shall comply with these dimensional regulations, unless relief is granted by the Planning Board by Special Permit A3.

TABLE OF PARKING DIMENSIONS

Standard Parking Spaces

Width	9 ft.
Length	18 ft. with overhang
	20 ft. without overhang

Parallel Parking Spaces

Width	8.5 ft.
Length	22 ft.

Loading Spaces

Width	12 ft.
Height Clearance	14 ft.

Aisle Width

Parking Angle	45 degree	60 degree	75 degree	90 degree	Parallel
	14 ft.	18 ft.	22 ft.	24 ft.	14 ft.

Minimum Driveway Widths

One way - 12 ft.

Two way - 20 ft.

4. **Plan Requirements.**

When construction or alteration of a parking area is proposed, or a Special Permit A2 or Special Permit A3 is sought, a plan shall be prepared and wet stamped with original signature of a Massachusetts professional civil engineer at a scale of 1" = 20' or 1" = 40' conforming to the design standards presented below and showing the following information:

- a. construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, signs, screening and lighting;
- b. location of all buildings, lot lines, and zoning boundary lines from which the parking lot and loading area must be set back; and

c. where landscaping is to be provided, the location, species, size and number of plantings.

5. Design Standards

- a. All parking areas designated for a use other than Single-Family Dwelling shall be designed to provide safe and convenient vehicular and pedestrian access, circulation and maneuverability and pedestrian activity, in accordance with this Section.
- b. All driveways shall be located and designed so as to minimize conflict with traffic on public and private ways and to provide good visibility and sight distance for observation of approaching vehicular or pedestrian traffic.
- c. Loading spaces shall be provided for all commercial activities. Their location, number and length will be reviewed and approved during the Site Plan Review process.
- d. Ample space shall be designated for access to loading and service doors separate from all parking areas and without obstruction or hindrance to travel on streets, driveways and aisles.
- e. Required parking and loading facilities shall be laid out so that each vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. In no case shall parking or loading spaces be located as to require the backing or maneuvering of a vehicle onto a sidewalk, or public or private way in order to leave the space. Driveways should be located and designed so that queues do not obstruct effective use of aisles and parking spaces.
- f. Parking space overhangs are not permissible beyond a property line, over a sidewalk, into a fire lane, or adjacent to a structure where a minimum clear distance of four feet cannot be provided.
- g. A substantial bumper of masonry, steel or heavy timber, or concrete or granite curb, or berm curb which is backed shall be placed at the edge of the surfaced areas except driveways to protect abutting structures, properties, sidewalks and screening materials.
- h. Any illumination of parking areas or loading or service areas shall be directed so as not to shine upwards or on abutting properties or public or private ways.
- i. Parking spaces shall be delineated by white pavement markings.
- j. Handicap spaces shall be provided in accordance with the Architectural Access Board regulations (521 CMR) for all parking areas exceeding 15 spaces.
- k. The layout of the parking area shall provide sufficient space for the storage of plowed snow unless removal by other means is assured.
- l. The maximum parking lot grade shall be 4 percent and the minimum 1 percent. Parking areas shall be surfaced with asphalt, concrete, or similar non-erosive surface. Drainage of parking areas shall be designed in a manner consistent with the performance standards set forth in Section I-I to prevent erosion or excessive water flow across public and private ways or abutting properties as well as graded and drained such that stormwater runoff does not accumulate on the ground surface. In addition to the foregoing, pervious paving materials may be permitted at the discretion of the Planning Board, subject to compliance with design and construction standards referenced in this subsection. The submittal should include information on the specific design proposed for pervious or porous pavement, and details of

- the required maintenance should be noted on the plans and incorporated as part of the submittal.
- m. Parking lots containing 10 or more parking spaces shall have at least one live tree and additional understory plantings per 10 spaces, such trees to be located within landscaped sections and islands in or around the parking area so as to soften the visual impact of large areas of hardscape and parked vehicles as much as possible. All landscaped sections and islands shall contain a mix of evergreen shrubs, trees and plantings. Landscaped sections shall be so designed and located to provide visual relief, channelize logical areas for safe pedestrian and vehicular circulation, and screen the parking lot from adjoining properties. Where landscaped sections abut a residential zone or use, the landscaping shall provide a year-round screening effect with plantings and berms to shield abutters from headlights. If parking areas are designed so as to face a public way, the landscaping shall provide a year-round screening effect to prevent headlight glare from shining into the way and soften the visual impact of the parking field. Trees shall be at least a three inch (3") caliper, with a clear trunk at least five feet (5') from the ground, and planted in raised plots providing a minimum of fifty square feet of seeded or landscaped permeable area per tree, whether planted singly or in groves. Preference should be given to species of growth and cultivation habit appropriate to the site. Existing trees shall be retained to meet this requirement whenever appropriate and practicable and removal of Protected Trees shall be subject to the provisions of Section I-I,6. Any landscaped areas may be included in the calculations for open space area.
- Parking lot trees must be maintained in a healthy growing condition at all times. The property owner is responsible for regular trash removal weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any tree which dies shall be removed promptly and replaced within the next planting season.
- Parking lot trees shall not be cut down or removed when a parking lot is reconstructed or enlarged. Said trees may be moved to another location on the lot upon approval of a Site Plan modification by the Planning Board.
- n. Shared Parking/Reduction in Parking Requirements – A reduction in the required number of off-street parking spaces may be granted by Special Permit A3. Parking areas serving a clearly defined mixture of uses that do not place coincident demands on the parking area may have the parking requirements reduced by 10 percent for a lot with 50-99 spaces, and by 15 percent if the lot size is 100 spaces or greater. Projects are encouraged to provide shared parking, cooperative parking, bicycle accommodations, landbanked parking spaces, consolidation of curb cuts and driveways, and other on-site amenities to alleviate the demand for parking and the adverse impact of impervious surfaces.
- Requests for reductions in off-street parking space requirements shall be accompanied by an analysis of the demand for off-street parking, a parking management summary, other like use parking demand studies and/or reports, a summary of the parking plan to reduce parking demand, and any other documentation necessary to adequately review the request for the reduction of parking requirements, prepared in accordance with the standards promulgated by the Institute of Transportation Engineers (ITE), the Urban Land Institute (ULI) or other appropriate source.
- o. Landbanked Off-Street Parking Areas – For projects requesting a reduced parking requirement, the Planning Board may require that an area equivalent to the total area of the reduced off-street parking spaces and related landscaped areas and driveways be preserved and identified on the Site Plan. Each landbanked parking space shall meet the dimensional requirements in the By-law. The landbanked parking spaces shall be designed as part of the overall parking development, and in no event shall any landbanked parking space be located

within the front or side yard setbacks, unless specifically permitted within the Zoning District. At the request of the Planning Board, the Applicant may be required to provide a parking monitoring program at specified times from the issuance of the certificate of occupancy, in order to determine if and when the landbanked parking spaces are needed. If, after the issuance of a certificate of occupancy, the Planning Board or the Applicant finds that all or a portion of the landbanked parking spaces are needed, the Applicant shall submit a written request to the Planning Board, which states the need for the additional off-street parking spaces, and a revised Site Plan denoting the un-landbanked parking spaces. Frequent parking of vehicles on a street adjacent to the premises or in areas not designated as formal parking spaces shall be considered evidence of the inadequacy of the off-street spaces provided.

- p. Parking lots containing 20 or more parking spaces shall provide infrastructure to make a minimum of 25 percent of the spaces compatible with electric vehicle charging and a minimum of 10 percent shall be equipped with electric vehicle charging stations.
6. An applicant is not entitled to a Special Permit. The Planning Board may approve such an application for a Special Permit A3 Parking Determination if it finds that, in its judgment:
- a. The parking is sufficient in quantity to meet the needs of the proposed project;
 - b. Safe pedestrian access and circulation has been provided for;
 - c. New driveways have been designed to maximize sightline distances to the greatest extent possible;
 - d. It is impractical to meet one or more of the Design Standards and that a waiver of such Standards will not result in or worsen parking, traffic or pedestrian safety problems on-site or on the surrounding streets, or adversely affect the value of abutting lands and buildings.
 - e. Except as specifically provided under subsection d above, the proposed parking area(s) meet applicable Design Standards and
 - f. The granting of this Special Permit is consistent with the intent of this By-Law and will not increase the likelihood of accident or impair access and circulation.

V-B. Signs

1. Purpose

This Section is adopted by the Town to reasonably regulate signs and other advertising devices within the Town in order to advance the public interest by preserving and enhancing natural scenic, historic and aesthetic qualities and promoting pedestrian and vehicular safety.

2. Definitions

In this Section the following terms shall have the following respective meanings:

Accessory Sign

any sign, which with respect to the premises on which it is located, indicates, calls attention to or advertises either the person occupying the premises on which it is located, or the business or activity being conducted on such premises, or which advertises the sale, rental or lease of the premises or any part thereof, and which contains no other advertising matter of any kind.

Awning

a retractable type structure of flexible material (plastic, canvas) on a frame attached to the facade of a building and projecting therefrom as a protection against sun or rain.

Awning Sign Area

the area encompassed by any wording, logo, or design distinct from the awning background color. Awning signs are measured and included within the allowances for parallel building signs.

Building Sign

any outdoor sign affixed to or painted on or in any manner supported by or forming a part of the exterior of a building and any sign on or in a window or door of a building.

Business Establishment

each separate place of business whether or not consisting of one or more buildings.

Commercial Message

any wording, logo or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product or service or other commercial activity.

Ground Sign

any sign other than a building sign as herein defined.

Incidental Sign

a sign, generally informational, relating to the business or service conducted on the premises, such as "open/closed," or "hours of operation.". No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Non-Accessory Sign

any sign other than an accessory sign as herein defined.

Sign

a sign shall include any lettering, word, numeral, emblem, design, device, trademark, drawing, picture, flag, pennant, streamer, or other object of whatever material or method of construction and however displayed whether being a structure or any part thereof, a building or other structure or object and used to indicate, announce, direct, attract, advertise or promote.

Window Sign

any temporary accessory sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed in or on a window and is visible from the exterior of a window. Signs painted on the window glass shall be considered permanent, parallel, exterior building signs.

3. Schedule of Sign Regulations

Signs hereafter erected or placed on property within the Town of Hingham shall conform to the requirements of this Section V-B. As set forth in the table below, signs permitted as of right will not require Building Permits. Building Permits for signs complying in all respects with the given requirements shall be issued by the Building Commissioner. In the alternative, but not in addition, Special Permits A1 for signs meeting all Special Permit limitations may be granted by the Board of Appeals. In those cases where a Special Permit from the Board of Appeals is required and granted, a Building Permit for the work in conformance with the terms of the Special Permit is also mandatory. Signs not meeting the regulations in all respects shall require a Variance from the Board of Appeals in accordance with Massachusetts General Laws Chapter 40A, Section 10.

In granting a Special Permit, the Board of Appeals shall find that the location, nature and use of the premises are such that the proposed sign or signs may be permitted in harmony with the general purpose and intent of this Section. In granting any such permit the Board shall specify the size, height, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

For explanation of the terms used in this table, refer to the footnotes on the pages which follow.

Schedule of Sign Regulations

Sign Type ¹	Maximum Area ²	Maximum Height	Minimum Setback ³	Maximum No. ⁴	Illumination ⁵	Permit Procedure ⁶
IN ALL RESIDENCE DISTRICTS AND THE OFFICIAL AND OPEN SPACE DISTRICT:						
Bldg.-Parallel	1 s.f.	5' above ground floor	n.a.	1	External	N
Bldg.-Parallel	4 s.f.	5' above ground floor	n.a.	1	External	B
Bldg. - Parallel	10 s.f.	5' above ground floor	n.a.	1	External	Z
Ground	2 s.f.	6'	-	1	External	N
Ground	4 s.f.	6'	-	1	External	B
Ground	20 s.f.	6'	15'	1	External	Z
IN BUSINESS DISTRICT A:						
Bldg.- Parallel	1 s.f.	5' above ground floor	n.a.	1	External	N
Bldg.-Window and/or incidental	-	n.a.	n.a.	20% glass area in the aggregate and no more than 45% of any individual window	None	N
Bldg.- Projecting ⁷	-	n.a.	n.a.	1	External	B
Perpendicular	4 s.f.					
Business flag	15 s.f.					
Awning	See Definitions					
Bldg. – Parallel	30 s.f.	-	n.a.	1	External	B
Bldg. – Projecting	9 s.f.	-	n.a.	1	External	Z
Perpendicular	45 s.f.	-	n.a.	-	External	Z

Sign Type ¹	Maximum Area ²	Maximum Height	Minimum Setback ³	Maximum No. ⁴	Illumination ⁵	Permit Procedure ⁶
Ground	2 s.f.	6'	10'	1	External	N
Ground	15 s.f.	12'	30' from Res. Zone	1	External	B
Ground	24 s.f.	12'	30' from Res. Zone	1	External	Z

IN BUSINESS DISTRICT B, WATERFRONT BUSINESS AND WATERFRONT RECREATION DISTRICTS:

Bldg.-Parallel	1 s.f.	5' above ground floor	n.a.	1	External	N
Bldg.- Perpendicular	4 s.f.	-	n.a.	1	External	B
Bldg.- Parallel	30 s.f.	-	n.a.	1	External	B
Bldg.- Perpendicular	9 s.f.	-	n.a.	1	External	Z
Bldg.- Parallel	60 s.f.	-	n.a.	-	External	Z
Ground	2 s.f.	6'	10'	1	External	N
Ground	15 s.f.	12'	30' from Res. Zone	1	External	B
Ground	24 s.f.	12'	30' from Res. Zone	1	External	Z

IN ALL INDUSTRIAL DISTRICTS AND THE OFFICE PARK DISTRICT:

Bldg.-Parallel	1 s.f.	5' above ground floor	n.a.	1	External	N
Bldg.-Parallel	not exceeding 10% wall area	-	n.a.	1	External	B
Bldg.-Parallel	not exceeding 10% wall area	-	n.a.	-	External	Z
Ground	2 s.f.	6'	10'	1	External	N
Ground	50 s.f.	12'	10'	1	External	B
Ground	50 s.f. per unit of 200' of frontage	12'	10'	-	External	Z

Table footnotes

1. **Sign Type**

Parallel wall signs shall not extend beyond the face of the wall, horizontally or vertically, nor project out from the wall more than 12". Perpendicular wall signs shall not extend above the top of the wall nor project out from the wall more than 3'.

No sign shall be mounted on or form a part of a roof, cupola, tower, spire, chimney, enclosure or other object or structure located on or above the roof of any building.
2. **Maximum Area**

In the case of a building sign composed of separate letters the size shall be calculated as the area of a rectangle enclosing the extreme limits of the sign, including any structural parts thereof.
3. **Minimum Setback**

Setback requirements are measured from front, side and rear property lines. This Section shall not exempt signs from the corner clearance requirements of Section IV-C, 6 of the Zoning By-Law of the Town of Hingham. See also Section V-B, 6 (e).
4. **Maximum Number**

If such business establishment has more than one public entrance, a secondary sign may be affixed to each wall in which such entrance is located other than the wall on which the principal sign is affixed. In Business District A if a business establishment abuts two public streets, a secondary sign may be affixed on the wall facing the side street. A secondary sign shall not exceed fifty percent of the maximum area of the principal sign.

For each business establishment in a building having two or more such establishments, provided that such establishment has a separate public entrance to its premises and that such sign is affixed to that portion of the wall which forms a part of the enclosure of such premises, there shall be not more than one exterior building sign per business establishment.

One directory sign of the business establishments occupying a building having a common public entrance, which sign shall be affixed parallel to the wall of the building at such public entrance. Such directory sign shall not exceed an area determined on the basis of one square foot for each establishment in the building. After public hearing and making the requisite Findings, the Board of Appeals may grant a Special Permit to allow more or larger signs up to the maximum total square footage allowed in the table (V-B, 3) for individual businesses.

In Office Park, Industrial Park, Limited Industrial Park and Industrial Districts, but excluding retail groups within those Districts, one or more directory ground signs listing the business establishments within the development, provided that a Special Permit A1 for such sign(s) has been issued by the Board of Appeals. Such directory ground sign(s) shall be placed in a safe location off the main road or driveway, which has at least two off-street parking spaces for the convenience of visitors reading the directory. The size of the directory sign(s) and lettering shall be scaled to the size of the development and the number of businesses, but shall not exceed ten (10) feet in height, fifteen (15) feet in length, and one hundred (100) feet in total area.
5. **Illumination**

Lighting shall be exterior to the advertising matter by white steady stationary light shielded and directed solely at the sign. No backlighting is permitted.

6. Permit Procedure

N = No permit required; permitted as-of-right

B = Building Permit required

Z = Zoning Special Permit required

7. Where projecting signs are installed over the public sidewalk, they shall be hung not lower than 7' from the ground to the lower edge of the sign.

8. Temporary Signs

The Select Board may grant permits for the erection and display of temporary signs, as follows:

- a. one unlighted ground sign advertising any function or activity of the applicant which will be open to the public, provided that such sign not exceed 4 square feet. The permit for such sign shall be for a stated period of time not exceeding 30 days.

Applications for temporary signs shall be in such form as the Select Board shall determine and shall contain a description of the proposed sign, including the size, height, material color, wording and supporting structure and the proposed location and inclusive dates of display. The Select Board may refer such application to the Building Commissioner for review and recommendation. In granting any such permit the Select Board shall specify the inclusive dates of the effective term thereof and may impose such further restrictions and conditions as they may deem to be in accordance with the purposes of this Section V-B and the public interest. Temporary signs shall not require Building Permits.

9. Exempted Signs

The provisions of this Section shall not apply to the following signs:

- a. any sign which is required or authorized by any law, rule, regulation or permit of the federal or state government or any agency thereof or any public authority created thereby;
- b. any sign erected or placed on any Town premises under the provisions of any Town By-Law or Building Code or by direction or order of the Town board or committee having lawful jurisdiction over such premises;
- c. nonconforming signs as defined in subsection 7 of this Section;
- d. any sign not exceeding 4 square feet in area, limited solely to directing traffic within a parking area, indicating parking restrictions in the use of such parking area, or indicating the location of building or unit numbers in a multi-unit complex;
- e. memorial building sign or tablet denoting the name of a building and/or date of erection, not to exceed 2 s.f. in residential districts or 6 s.f. in other districts, provided that nothing herein shall limit the authority of the Historic Districts Commission to further regulate signs within duly designated local historic districts;
- f. customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof,
- g. holiday decorations and lights when in season;

- h. one unlighted ground sign advertising the sale, rental or lease of the premises or any part thereof, provided that such sign shall not exceed 8 square feet;
 - i. one unlighted ground sign in a residential subdivision of six or more approved lots, which advertises the sale, rental or lease of the individual lots therein, provided that such sign not exceed 40 square feet;
 - j. one unlighted ground sign on each lot which advertises the name and address of the owner, architect, engineer and/or contractor responsible for any construction on the premises, provided that such sign shall not exceed 12 square feet; or
 - k. paper or cardstock window signs not exceeding 11" x 17" in size advertising any campaign, drive, event or activity of a civic, philanthropic, educational or religious organization for noncommercial purposes, provided they are to be removed within thirty days of initial display.
10. Prohibited Signs
- a. Any sign not expressly permitted or exempted under this Section, including, without limitation, an "A"-shaped or "V"-shaped sign, a trailer sign and a billboard, is prohibited.
 - b. Flashing, moving or animated signs or signs designed to attract attention by a change in light intensity or by repeated motion, which such change or motion is generated by or internal to the sign itself, are prohibited.
 - c. Internally illuminated signs are prohibited.
 - d. Non-accessory signs promoting commercial activities are prohibited; non-accessory signs promoting non-commercial activities are permitted so long as they comply with the requirements of this Section V-B.
- For the purposes of this Section, fund-raising activities by charitable organizations shall not be considered commercial activities.
- e. No sign shall be erected at or near the intersection of any streets, or of a street and driveway, in such manner as to obstruct free and clear vision, or be erected at any location where, by reason of the position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of or be confused with, any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.
11. Nonconforming Signs
- a. Any nonconforming sign legally erected prior to the adoption of this By-Law may continue to be maintained; provided, however, that no such sign shall be enlarged, redesigned, or altered except in accordance with the provisions of this By-Law.
 - b. The exemption herein granted shall terminate with respect to any sign which (1) shall have been abandoned; (2) shall not have been repaired or properly maintained within sixty (60) days after notice in writing to that effect has been given by the Building Commissioner.

12. Pertinence to Other Laws

All signs shall be subject to any and all other applicable by-laws and regulations of the Town of Hingham and the Commonwealth of Massachusetts. Nothing in this By-Law is intended to limit the exercise of the right of free speech guaranteed under the Constitutions of the United States or the Commonwealth of Massachusetts.

V-C. Earth Removal Regulations

1. Permit Required

- a. No soil, loam, sand, gravel, or other earth materials shall be removed from any lot within the Town unless such removal will constitute an exempt operation as hereinafter provided or is done pursuant to a Special Permit A2 therefor issued by the Board of Appeals.
- b. No Special Permit A2 for removal of earth materials shall be granted unless the Board finds that operations conducted under such permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town. For this purpose an operation shall be considered contrary to the best interests of the Town which:
 - (i) will be injurious or dangerous to the public health or safety;
 - (ii) will produce noise, dust or other effects observable from adjacent property in amounts seriously objectionable or detrimental to the normal use of adjacent property;
 - (iii) will result in such use of Town streets so as to cause congestion or hazardous conditions;
 - (iv) will result in the change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted; or
 - (v) will have a material adverse effect on the water supply, health or safety of persons living in the neighborhood or on the use of or amenities of adjacent land.

2. Application and Reference to Planning Board

- a. Each application for a Special Permit A2 for earth material removal shall be accompanied by a plan, submitted in triplicate (the exact size and number of copies of which may be indicated by rule of the Board of Appeals), prepared at the expense of the applicant by a registered land surveyor or civil engineer, showing:
 - (i) the existing contours of the land;
 - (ii) the contours as proposed after completion of the operation;
 - (iii) the proposed lateral support to all adjacent property;
 - (iv) the proposed drainage including calculations; and

(v) other information necessary to indicate the complete physical characteristics of the proposed operation.

3. Conditions of Permit

- a. In granting a Special Permit A2 hereunder the Board of Appeals shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town; which may include conditions as to:
 - (i) method of removal;
 - (ii) type and location of temporary structures;
 - (iii) hours of operation;
 - (iv) routes for transporting the material through the Town;
 - (v) area and depth of excavation;
 - (vi) distance of excavation to street and lot lines;
 - (vii) steepness of slopes excavated;
 - (viii) re-establishment of ground levels and grades;
 - (ix) provisions for temporary and permanent drainage;
 - (x) disposition of boulders and tree stumps;
 - (xi) replacement of loam over the area of removal;
 - (xii) planting of the area to suitable cover, including shrubs and trees; and
 - (xiii) cleaning, repair, and/or resurfacing of streets used in removal activities which have been adversely affected by the removal activity.
- b. No permit for removal of earth material shall be issued for a period of more than three (3) years, although such a permit may be renewed for additional periods in the same manner. The Board shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reasons for its Finding.

4. Existing Operation

A sand or gravel removal activity in lawful operation on any premises on March 10, 1941, may continue as an exempt operation unless and until abandoned, or if operating under a prior permit issued by the Board of Appeals until the expiration thereof. Discontinuance for more than twenty four (24) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by such prior permit or by a new permit issued hereunder:

- a. the depth of excavation shall not be extended below the grade of the lowest point excavated on the effective date of this Section of the By-Law;

- b. the total area of excavation shall not be increased by more than fifty (50) percent over its area on said date; and
 - c. the amount of material removed per day shall not be increased by more than fifty (50) per cent the daily average for the twelve (12) months preceding said date (or the actual period of operation, if less than twelve months).
- 5. **Other Exceptions**
The removal of earth material in any of the following operations shall be an exempt operation:
 - a. the removal of less than ten (10) cubic yards of material in the aggregate in any year from any one lot;
 - b. the transfer of material from one part of a lot to another part of the same lot;
 - c. the removal of material necessarily excavated in connection with the lawful construction of a building, structure or street, or of a driveway, way, sidewalk, path or other appurtenance incidental to any such building, structure or street; provided that the quantity of the material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenance below finished grade; or
 - d. activities specifically directed by a valid Order of Conditions from the Hingham Conservation Commission.

6. **Permits in Proposed Subdivisions**

It is the intention of the By-Law that the removal of earth materials in an amount in excess of that permitted in subsection 5.a. above from any parcel of land for which a definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of material in excess of ten (10) cubic yards from the premises, even though in connection with the construction of streets shown on the plan unless the material removed is below the finished grade of the constructed street as provided in subsection 5.c.

V-D. Noise

In an Industrial District, all parties engaged in any industrial activity will provide methods to protect the abutting residential districts from the hazards and nuisances caused by the emission of noises so as to eliminate any such noises which exceed the maximum permitted sound levels defined herein as measured at any point along a district line. Noise shall be measured with an A-scale sound level meter, calibrated in accordance with specifications of the American National Standards Institute (ANSI) or as specified by the Commonwealth of Massachusetts, Department of Environmental Protection, measured over a representative period of time.

TABLE OF MAXIMUM PERMITTED SOUND LEVELS

Sound measured at a lot line abutting a residential district or school	Continuous Slow-Meter Response dB (A) 55
1. Between the hours of 6:00 P.M. and 9:00 P.M., the permissible sound levels at the boundary of any abutting residential district shall be reduced by five (5) decibels, and between the hours of 9:00 P.M. and 7:00 A.M. the permissible sound levels at the boundary of any abutting residential district shall be reduced by ten (10) decibels.	
2. The following sources of noise are exempt from noise level regulations:	

- a. noises of safety signals, warning devices and emergency pressure-relief valves;
- b. noises emanating from temporary construction and maintenance activities between 7:00 A.M. and 7:00 P.M.; and
- c. transient noises of vehicular traffic.

V-E. Personal Wireless Services

1. Purposes

The purposes of this Section are to allow adequate Personal Wireless Services to be developed while simultaneously preserving the character and appearance of the Town by protecting the scenic, historic, environmental and natural resources of the community, by requiring owners of Towers and Personal Wireless Service Facilities to configure them so as to minimize and mitigate the adverse visual impact of the Towers and Facilities, and by providing standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of Towers and other Personal Wireless Service Facilities to ensure public safety.

2. Consistency with Federal Law

This Section V-E is intended to be consistent with the Telecommunications Act of 1996 in that

- a. it does not prohibit or have the effect of prohibiting the provision of Personal Wireless Services;
- b. it is not intended to be used to unreasonably discriminate among providers of functionally equivalent Personal Wireless Services;
- c. it does not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulations of Personal Wireless Services and Facilities comply with the FCC's regulations concerning such emissions.

3. Definitions

Act

The Telecommunications Act of 1996

Antenna

A device which is attached to a Tower or a Host Structure, as permitted hereunder, for transmitting and receiving Personal Wireless Service transmissions

Communication Equipment Shelter

A structure located with a Tower designed principally to enclose equipment used in connection with Personal Wireless Service transmissions

Distributed Antenna System(DAS)

A multiple antenna system including antennas and control boxes typically installed on utility poles interconnected via cable or fibers belonging to the access point/base station dispersed across a coverage area. The system shall be capable of co-locating multiple Personal Wireless Service providers simultaneously.

FCC

Federal Communications Commission

Host Structure

Any building or structure (as defined in Section VI of this By-Law) other than a Tower, but including (notwithstanding anything to the contrary in Section VI) utility poles, signs and flagpoles, upon or within which a new Personal Wireless Service Facility or major modification thereof is proposed, including, without limitation, any newly constructed building or structure or any addition to any existing building or structure upon or within which installation of a Personal Wireless Service Facility is simultaneously proposed.

Major Modification of an Existing Facility

Any change, or proposed change, to an existing or permitted Facility designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment

Monopole

A single, self-supporting vertical pole

Personal Wireless Services

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Act

Personal Wireless Service Facility (also referred to herein as a "Facility")

All equipment (including any repeaters) with which a Personal Wireless Service provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment and any part thereof. This Facility may be sited on a Tower or other structure, as provided herein.

Tower

A lattice structure or structure or framework, or Monopole, that is designed to support Personal Wireless Service transmissions receiving and/or relaying antennas and/or equipment

4. Location

Notwithstanding any language to the contrary in Section III-F, a Personal Wireless Service Facility including a Tower may be erected in an Industrial, Industrial Park or Limited industrial Park zoning district, upon issuance of a Special Permit A2 by the Board of Appeals.

Within the Industrial, Industrial Park or Limited Industrial Park and Office Park zoning districts, an Antenna may be attached to a Host Structure upon issuance of a Special Permit A2 by the Board of Appeals.

In all zoning districts any Personal Wireless Services Facility, other than a Tower, which is completely concealed within a non-residential structure such that no part of the Facility is visible from the exterior of the structure may be installed upon issuance of a Special Permit A2 by the Board of Appeals.

In all zoning districts a DAS may be installed on non-residential Host Structures upon the issuance of a Special Permit A2 by the Board of Appeals.

A Tower may be permitted in the locations specified in this By-Law only after it is found that a DAS cannot provide as adequate coverage or service as the proposed Tower.

The Applicant must provide evidence that utilizing a DAS, or connecting into an existing DAS, will not provide such adequate coverage or service.

5. Independent Review

In accordance with Section I-F, 3, upon receipt of an application for a Special Permit under this Section V-E, the Board may hire independent consultants whose services shall be paid for by the Applicant, for the purpose of reviewing the application.

6. Submittal Requirements

An application for a Special Permit A2 under this Section V-E shall include all of the following:

- a. The information required for Site Plan Approval, as set forth in Section I-I, as it may be amended from time to time.
- b. Where the Applicant is not the owner of record, evidence of the Applicant's right to possession and/or control of the premises shall be presented. Without limiting the foregoing, every application must be joined by a Personal Wireless Service provider who will be an immediate user of the proposed Personal Wireless Service Facility.
- c. A narrative description of the proposed Facility including the location and identification of all components together with plans, photographs or other graphic illustrations fairly depicting the physical appearance of the proposed Facility equipment when installed.
- d. A description of the capacity of the Facility, including, in the case of a Tower, the number and types of antennas that it can accommodate and the basis for calculation of capacity. Description of the proposed equipment should include data as to noise, certified by an acoustical engineer, and the beam widths at ground level for the energy outputs from each Antenna sector and degree of down-tilt of each Antenna.
- e. A Site Plan showing location of the Facility, any proposed Communications Equipment Shelter along with other buildings, lot lines, easements, rights-of-way and also an elevation showing details of the installation.

- f. A map showing all Personal Wireless Service Facilities within ten miles of the proposed installation currently existing, or which the applicant expects to install and/or reasonably knows will be proposed or installed by other Personal Wireless Service providers within the next twenty-four (24) months.
 - g. A listing of the state and/or federal permits, licenses or approvals acquired or needing to be acquired for the proposed installation.
 - h. A description in both geographic and radio frequency terms of the scope and quality of the service currently available to the Town, the need to be addressed by the Facility and the manner in which the Facility will address the perceived need for service, including, in the case of a Tower, consideration given to other alternatives.
 - i. A description of the terms of any co-location agreements between the Applicant and any other Personal Wireless Service provider.
7. Towers
- The following requirements apply to all Towers:
- a. At the Board's discretion, the Applicant shall conduct a balloon or crane test, or such other reasonable equivalent, of the height of the proposed Tower. Upon notice that such a test will be required, the Applicant is responsible for making arrangements with the Board's staff so that notice of the test may be included within the legal notice for the public hearing. Photographs of the actual test from a suitable number of locations so as to depict the visual impact of the proposed facility on the Town shall be submitted to the Board at the public hearing.
 - b. No new Tower shall be erected if there is technically suitable space available on an existing Tower, or capacity within a DAS, within the geographic area that the proposed Tower is to serve. The Applicant shall make reasonable accommodation and shall agree to rent or lease space on the Tower, under the terms of a fair-market lease, without discrimination to other Personal Wireless Service providers.
 - c. Tower height shall not exceed one hundred (100) feet. The Board of Appeals may waive this restriction within the Special Permit A2 to allow for co-location which will reduce the need for other Facilities.
 - d. In order to maintain a safety fall zone, a Tower shall not be erected nearer to any property line than a distance equal to the vertical height of the Tower (inclusive of any appurtenant device), plus 10 percent or 20 feet, whichever is greater (or such greater distance to the extent that federal or state law allows for any additional increases in the height of the Tower), measured at the mean finished grade of the Tower base.
 - e. Existing on-site vegetation shall be preserved to the maximum extent practicable. The Board may require the planting of screening vegetation around the perimeter of the proposed site and around Communication Equipment Shelters and any other proposed buildings.
 - f. The Tower shall minimize, to the extent feasible, adverse visual effects on the environment. The Board of Appeals may impose reasonable conditions to ensure this result, including painting and lighting standards. Any Communication

- Equipment Shelter or accessory building for support of communication equipment, as well as any fencing installed to control access to it, shall be designed to be architecturally similar and compatible with the surrounding area and, whenever feasible, structures shall be constructed underground.
- g. To the extent feasible, all network interconnections from the Personal Wireless Services Facility shall be via land lines.
 - h. The area surrounding the Personal Wireless Service Facility and accessory buildings shall be completely secure from trespass or vandalism. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the Facility's owner and a 24-hour emergency telephone number.
 - i. Traffic associated with the Tower and accessory facilities shall not adversely affect abutting ways.
 - j. All unused Towers or parts thereof which have not been used for two years shall be dismantled and removed at the owner's expense. The Board of Appeals may require that the proper dismantling and removal of a Tower be secured by a bond or other form of security sufficient in the opinion of the Board to secure performance under this subsection j.
 - k. No commercial signage or advertising may be affixed to any Tower.
 - l. Unless an earlier expiration date is specified by the Board of Appeals in the Special Permit, all Special Permits issued under this subsection 7 shall expire automatically five years from the date of issuance. Prior to expiration the Applicant may apply for successive five-year renewals, subject to the public hearing process. In determining whether the Special Permit shall be renewed, the Board shall take into consideration whether there then exist any structures and/or technology available to the Applicant which would enable the Applicant to provide functionally-equivalent services in a less intrusive manner.
8. Personal Wireless Service Facilities on Host Structures
- The following requirements apply to all Personal Wireless Facilities on Host Structures:
- a. Antennas and related equipment shall be camouflaged, that is, disguised, shielded, hidden or made to appear as an architectural component of the structure, provided however, antennas installed on utility poles, signs or flag poles as part of a DAS shall not be required to be camouflaged.
 - b. Facade-mounted Antennas shall not extend above the face of any wall or exterior surface of the Host Structure.
 - c. Antennas installed on utility poles, signs or flag poles as part of a DAS shall not exceed ten feet in height beyond the highest point of such utility pole, sign or flag pole.
 - d. Unless an earlier expiration date is specified by the Board of Appeals in the Special Permit, all Special Permits for Distributed Antenna Systems shall expire automatically ten years from the date of issuance. Prior to expiration the Applicant may apply for successive ten-year renewals, subject to a public hearing process. In determining whether the Special Permit shall be renewed, the Board shall take

into consideration whether there then exists any structures and/or technology available to the Applicant which would enable the Applicant to provide functionally-equivalent services in a less intrusive manner.

- e. Roof-mounted Personal Wireless Service Facilities may be permitted on buildings in accordance with the following table:

Height of Building	Maximum Height of Facility above Highest Point of Roof	Required Setback from Edge of Roof or Building
Up to 15 feet	8 feet height, including Antenna	1 foot for every foot of equipment
15-36 feet	10 feet height, including Antenna	1 foot for every foot of equipment
More than 36 feet	12 feet, or 20% of building height, whichever is greater	½ foot for every foot of equipment height, including Antenna

9. Personal Wireless Service Facilities Within Host Structures

- a. All Facilities shall be concealed, that is, entirely contained within a Host Structure such that no part of the Facility, including the Antenna, is visible from the exterior of the structure.

10. Additional Requirements

- a. The installation of Towers and Personal Wireless Service Facilities shall avoid the removal or disruption of historic resources on and off-site.
- b. There shall be no illumination of the Towers or Personal Wireless Service Facilities except as required by state and federal law.
- c. The Personal Wireless Service provider shall continuously insure its Tower and/or Personal Wireless Service Facilities against damages to persons or property in an amount established by the Board based upon the nature and extent of the proposed Facility. On an annual basis, the Personal Wireless Service provider shall provide a Certificate of Insurance, in which the Town shall be specifically listed as an additional insured, to the Town Building Commissioner.
- d. Towers and Personal Wireless Service Facilities shall be installed, erected, maintained and used in compliance with all applicable federal and state laws and regulations.
- e. All Personal Wireless Service providers shall monitor emissions annually and file a written statement annually with the Town Building Commissioner stating that the Facility is in compliance with any applicable laws and government regulations including, but not limited to, those of the Federal Communications Commission and the Federal Aviation Administration. If the Facility is not in compliance with said laws and regulations, the Personal Wireless Service provider shall come into compliance with said laws and regulations within fifteen (15) days of the date of any such non-compliance or cease all Personal Wireless Service operations until such time as said Personal Wireless Service provider comes into full compliance with all applicable laws and regulations. Such statement shall be filed with the application and thereafter by February 28 of each year. The data which form the

basis of the statement shall be provided to the Town at no cost to the Town upon the request of the Town Building Commissioner.

- f. Towers and/or Personal Wireless Service Facilities must at all times be maintained in good and safe condition. The Personal Wireless Service provider shall arrange for a professional structural engineer licensed in Massachusetts to review the Tower and/or Personal Wireless Service Facilities and any accessory buildings every five (5) years to certify these structures and Facilities are in sound condition. A report of the engineer's findings shall be filed with the Town Building Commissioner at the completion of construction and by February 28, of the fifth year of operation of the Facility. All costs for the inspection shall be borne by the Applicant. Should the engineer deem the structure or Facility not to be sound, the owner of the Facility shall submit to the Town, within ten (10) business days, a plan to remedy the structural defect(s). Upon approval of the plan by the Building Commissioner, the remediation plan shall be completed as soon as is reasonably possible.
- g. No Personal Wireless Service Facility shall be installed on or within any single-or multi-unit dwelling or on or within any accessory structure to a residential use in any zoning district.
- h. All applicable requirements of this Section V-E shall also apply to any Major Modification of an Existing Facility and/or any Major Modification of an Existing Tower.
- i. A Personal Wireless Service Facility shall be permitted only if the Applicant demonstrates that no other existing or proposed facility can, or can reasonably be adapted to, provide adequate coverage and service. An Applicant shall provide all information relative to existing and proposed facilities as may reasonably be requested by the Board of Appeals.
- j. All unused Personal Wireless Service Facilities or parts thereof which have not been used for two years shall be dismantled and removed at the owner's expense. The Board of Appeals may require that the proper dismantling and removal be secured by a bond or other form of security sufficient in the opinion of the Board to secure performance under this subsection j.

11. Exemptions

The following types of wireless communications facilities are exempt from this Section V-E:

- a. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that
 - (i) the tower is not used or licensed for any commercial purpose.
- b. Personal Wireless Facilities Service solely providing safety or emergency services for any federal, state or municipal department.

V-F. Adult Uses

1. Purpose

It is the purpose and intent of this By-Law to regulate adult entertainment businesses through the Special Permit process. Since the effects of adult uses on the surrounding community in terms of crime, effects upon children and family life, property values and quality of life are well documented, it is the intention of this By-Law to assure content-neutral regulation of these activities for the general health and welfare of the inhabitants of the Town.

The provisions of this By-Law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually-oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, or of denying rights that individuals may have to such matter or material. Further, it is neither the intent nor the effect of this By-Law to legalize the distribution of such matter or material. Massachusetts General Laws Chapter 40A, Section 9A, states that a municipality may limit the extent to which adult entertainment is allowed in a community but cannot prohibit adult entertainment from its boundaries.

2. Definitions

Adult Bookstore or Paraphernalia Store

An establishment and/or business which has, as a substantial or significant part of its stock in trade, books, magazines, or other devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity or their emphasis depicting, describing, ME or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Live Entertainment Establishment

An establishment offering performances by men or women engaging in sexual conduct or display of nudity as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Motion Picture Theater

An establishment used for the purpose of presenting visual material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Video Store

An establishment having, as a substantial or significant part of its stock in trade, videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual excitement and/or conduct as defined in Massachusetts General Laws Chapter 272, Section 31.

Massage Service Establishment

An establishment and/or business providing pressure or friction upon any or all parts of the external human body independently or in conjunction with mechanical or electrical apparatus, lotions or creams, and upon which a party receiving such service would be reasonably expected to provide consideration for such service, exclusive of physicians, surgeons, chiropractors, osteopaths, physical therapists, nurses, barbers, beauticians or other parties licensed by the Hingham Board of Health under Massachusetts General Laws Chapter 140, Section 51.

Satisfactory Criminal Record Check

Evidence that the applicant has not been imprisoned for, or convicted of the following offenses or similar offenses, however defined, within the past two (2) years if a misdemeanor or within the past five (5) years if a felony; prostitution or promotion of prostitution; sale, distribution or display of harmful material to a minor; possession or distribution of pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; gambling; organized criminal activity; or distribution of a controlled substance.

Substantial or Significant Part of its Stock in Trade

More than twenty-five percent (25%) of the subject establishment's inventory stock or more than twenty-five percent (25%) of the subject premises' gross floor area.

3. Submittal and Review Requirements

A Special Permit A2 is required to build or operate any establishment falling within the scope of the definitions of this Section. As part of any application for said Special Permit, applicants shall submit, at a minimum, the information required for Site Plan Approval, as set forth in Section I-I, as it may be amended.

Applicants shall also comply with all of the following conditions:

- a. No such use shall be located in any residence district or in any other district except Industrial Park and Limited Industrial Park Districts but not as part of a retail group in either of those districts.
- b. No such establishment shall be located within 1000 feet of any residence district, Official and Open Space District, church and/or place of worship, school, playground, daycare center, or nursery.
- c. No such establishment shall be located within 1000 feet of any other such establishment.
- d. The names and addresses of all individuals holding any interest (including but not limited to all legal and equitable interests, security interests, mortgage, lease, including the naming of all trustees and beneficiaries of any trusts, LLC's and/or other device holding ownership of such establishment) in such establishment shall be listed on the Special Permit A2 application.
- e. The names and addresses of all owners, managers and employees must be provided as well as evidence of a satisfactory criminal record check of each.
- f. An adequate security plan shall be presented for each establishment.
- g. Any display or advertising shall be in accordance with the provisions of Section V-B of this By-Law, provided that no advertisement, display or other promotional material which contains sexually-explicit graphics or sexually-explicit text is to be visible to the public from any private or public way or walkway.
- h. The Planning Board shall hold a public hearing, advertised not more than one time in a newspaper of general circulation in the Town, within 30 days of the filing of the Special Permit application, to make a recommendation to the Board of Appeals relative to drainage, adequate buffer zones, parking, traffic and safety hazards, and any materially adverse impact on the surrounding area.

- i. No Special Permit shall be issued under this Section for any establishment which is, in whole or in part, owned or operated by any person who has been convicted of violating Massachusetts General Laws Chapter 119, Section 63 or Massachusetts General Laws Chapter 272, Section 28.

V-G. Bed & Breakfast Establishment

1. Purpose
 - a. Under the authority conferred by Massachusetts General Law Chapter 40A, as amended, and every other power and authority thereto pertaining, the Town of Hingham adopts this By-Law for the regulation of Bed & Breakfast establishments to achieve the following purposes:
 - (i) to encourage the utilization of homes in residential and business zoned districts which because of their size are costly and/or difficult to maintain as private residences; to provide an economic incentive to maintain and to rehabilitate older, larger residences.
 - (ii) to regulate Bed & Breakfast establishments to insure sensitivity and compatibility with the surrounding neighborhoods in residentially zoned districts through minimizing adverse impacts on neighboring residential uses.
2. Description
A Bed & Breakfast is a Single-Family Dwelling having a mixed use as a home for the residential owner and as an accessory use for guest lodging. The home is to be the primary and legal residence of the owner.
3. Submittal and Review Requirements
A Special Permit A2 shall be required to operate a Bed & Breakfast establishment. As a part of any application for said Special Permit, applicants shall submit, at a minimum, the information required for Site Plan Approval.
4. Minimum Requirements
 - (i) The Bed & Breakfast establishment and operation shall be located within an existing owner-occupied Single-Family Dwelling containing a minimum of four (4) bedrooms as of March 10, 1941.
 - (ii) Up to three (3) rooms, but not more than one-half (1/2) of the bedrooms as of March 10, 1941, may be dedicated to the Bed & Breakfast establishment. Additionally, not more than forty-five (45%) percent of the entire habitable living space shall be allocated for Bed & Breakfast establishment purposes, and there shall be no more than six (6) guests lodging at the establishment at any one time, and the term of any guest's residence shall not exceed fourteen days.
 - (iii) The Special Permit authorizing a Bed & Breakfast establishment shall be issued to the owner of the property only and is not transferable to a subsequent property owner.
 - (iv) The owner of the property shall be responsible for the operation of the property and shall be a resident of the property when the Bed & Breakfast establishment is

in operation. The owner shall file an affidavit with the Building Commissioner and Town Clerk on an annual basis in the month of January, stating that the property is the principal residence of the owner and that the owner is in residence at all times that the Bed & Breakfast is being operated. If the affidavit is not filed, the operation shall cease forthwith, and any Special Permit issued hereunder shall be considered null and void.

- (v) The Single-Family Dwelling in which the Bed & Breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a Single-Family Dwelling.
- (vi) No cooking facilities, including, but not limited to, stoves, microwave ovens, toaster ovens, and hot plates, shall be available to guests and no meals, except continental breakfast, shall be served to guests. Alcohol shall also be prohibited from being served on the premises to any Bed & Breakfast guest. Additionally, there shall be at least one (1) bathroom solely dedicated to the guests of the Bed & Breakfast establishment.
- (vii) If the property is not to be served by public water, the applicant shall provide evidence to the Zoning Board of Appeals that the proposed use will not have any detrimental impact on any water supply on-site or off-site.
- (viii) Any septic system shall have the design capacity to support the proposed number of rooms available for rent, as said design capacity is defined by the Hingham Board of Health. Any Certificate of Occupancy shall be signed by the Hingham Board of Health. New Bed & Breakfast establishments served by an existing septic system shall not be granted approval for operation until the Health Department confirms compliance with inspection and/or design requirements as set forth in 310 CMR 15.301; 302; 303; 352; 414 State Environmental Code Title V Minimum Requirements for the Subsurface Disposal of Sanitary Sewage and any applicable local Board of Health rules and regulations.
- (ix) Exterior lighting shall be so shaded as to prevent illumination off-site. All external lighting, except for demonstrated security needs, shall be extinguished by 10:00 P.M.
- (x) No parking shall be located in any required building yard setback. Parking areas shall be screened from adjoining residential properties by a fence or dense plantings, not less than five (5) feet in height. Furthermore, parking shall be prohibited in the front yard(s) as defined in the Hingham Zoning By-Law, Section VI. All parking for a Bed & Breakfast facility shall be located on the premises. There shall be provided two (2) parking spaces for the home owner and one (1) parking space for each room which the Bed & Breakfast establishment has available for rent to guests.
- (xi) Applicants for Special Permits under the provisions of this By-Law shall provide sketches, drawings or plans necessary to illustrate compliance with the requirements of this By-Law. The Planning Board or Board of Appeals may, at its discretion, require plans to be prepared by registered land surveyors, architects or engineers to illustrate the Special Permit application for the benefit of the Board and other Town officers such as the Building Commissioner and the Health Officer. Illustration required may include but not be limited to parking and driveway plan, room layout, sanitary facilities, and kitchen facilities.

- (xii) Any sign relating to a Bed & Breakfast operation shall comply with the applicable sign By-Law as set forth in Section V-B. However, all signs for a Bed & Breakfast operation shall be no greater than 1 1/2 x 1 1/2 feet in size.
- (xiii) Prior to the renting of any rooms to guests the applicant shall obtain a Certificate of Occupancy from the Hingham Building Commissioner. The Certificate of Occupancy shall be renewable every year according to the applicable fee schedule established by the Select Board.

V-H. Registered Marijuana Dispensaries

1. Purpose
 - a. To regulate the siting, security, and operation of Registered Marijuana Dispensaries, subject to the applicable provisions of M.G.L. Chapter 94I and the regulations promulgated at 105 CMR 725 et. seq., as the same may be amended or replaced (collectively referred to in this Section V-H as "applicable law"). Terms used in this Section V-H and not otherwise defined in this By-Law shall have the meaning set forth under applicable law.
 - b. To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and land uses potentially incompatible with Registered Marijuana Dispensaries.
2. Definitions

Registered Marijuana Dispensary ("RMD") (also known as Medical Marijuana Treatment Center) means the premises at which a medical use marijuana licensee is permitted under applicable law and this By-Law to possess, cultivate, process, transfer, transport, sell, distribute, dispense, or administer medical use marijuana to registered qualifying patients or their personal caregivers.

Medical Use of Marijuana shall mean the acquisition, cultivation, possession, processing, including development of related products such as food, tinctures, aerosols, oils or ointments, transfer, transportation, sale, distribution, dispensing or administration of marijuana for the benefit of registered qualifying patients in the treatment of debilitating medical conditions or the symptoms thereof.

3. Exclusion of Other Marijuana Establishments.
This Section V-H shall govern Registered Marijuana Dispensaries as defined herein and shall not be interpreted to allow any other establishment, including any marijuana establishment as defined in M.G.L. Chapter 94G, that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, or related activities except as, and to the extent, expressly permitted under this Zoning By-Law and any other bylaws and regulations of the Town of Hingham.
4. Exclusion of Accessory Uses.
In no event shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any other use, provided, however, that this provision shall not prohibit hardship cultivation to the extent permitted under, and subject to, the provisions of applicable law.

5. Special Permit Requirements.
- a. A Special Permit for a Registered Marijuana Dispensary shall be limited to the uses permitted by applicable law and shall not be combined with other uses permitted or allowed under the Zoning By-law.
 - b. In addition to the application requirements set forth in this Section V-H, a Special Permit application for a Registered Marijuana Dispensary shall include the following:
 - (i) the name and address of each owner of the RMD;
 - (ii) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the RMD;
 - (iii) trade name, logo and building signage which complies with applicable provisions of this By-law and applicable law;
 - (iv) evidence of the Applicant's right to use the site of the RMD for the RMD, such as a deed or lease;
 - (v) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities, rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals; and
 - (vi) proposed security measures for the Registered Marijuana Dispensaries, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.
 - c. Mandatory Findings. The Board of Appeals shall not issue a Special Permit for a Registered Marijuana Dispensary unless it finds that:
 - (i) the applicant has satisfied all of the conditions and requirements of this Section V-H and any other applicable provisions of the Zoning By-law; and
 - (ii) the RMD demonstrates that it will meet the permitting requirements of all other applicable state and local authorities related to the use and operation of an RMD; and
 - (iii) the RMD is designed to minimize any adverse visual or economic impacts on abutters or the surrounding neighborhood.

group or shopping center in the Industrial Park District. Use Variances shall be strictly prohibited.

- b. In addition to the dimensional requirements set forth in Section IV-A for the South Hingham Development Overlay District (or the underlying zoning districts therein), RMDs (or any part thereof) shall not be located within 500 feet of the boundary of any (i) Residence zoning district, (ii) school, or (iii) outdoor playground or athletic fields; except when such uses are separated by Derby Street, Whiting Street or Route 3.
- c. The hours of operation shall be set by the Board of Appeals.
- d. Special permits shall remain exclusively with the original applicant to whom it is issued, who shall be the owner or lessee of the land and/or building described in the application. The Special Permit shall automatically terminate on the date the applicant transfers or conveys (other than the granting of a mortgage to an institutional lender) its title or leasehold interest, as applicable, in the land or the building where the RMD is located. A Special Permit may be transferred only with the approval of the Board of Appeals by major modification to the Special Permit with all information required in this Section V-H.
- e. All sales or other distribution of products containing marijuana or marijuana-related products shall occur indoors. Except as permitted by applicable law, no smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an RMD.
- f. RMDs shall provide the Hingham Police Department, Building Commissioner and the Board of Appeals with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the RMD.
- g. As a condition of its Special Permit, the holder shall (i) prior to the issuance of a certificate of occupancy, provide to the Board of Appeals a copy of all local permits required for operation of the RMD, and (ii) file an annual report to the Board of Appeals no later than January 31st, providing a copy of all current applicable local permits and state licenses for the RMD and its owners and demonstrating continued compliance with the conditions of the Special Permit.
- h. Any Special Permit issued under this Section V-H shall lapse if not exercised within one year of issuance.
- i. Immediately upon the earlier of the expiration, surrender or revocation of any state issued licenses or registration, or the ceasing of operations at the RMD, all plants, marijuana infused products or other marijuana products of any kind shall be destroyed or removed from the property.

V-I. Common Driveways

- 1. Purpose
The purpose of this Section is to provide guidelines for the Planning Board to permit Common Driveways in order to reduce the number of access points on public or private streets; to protect wetlands and sensitive natural areas from disturbance; and to preserve

historic streetscapes in the Town, when these driveways meet reasonable construction and design standards.

2. **Applicability and Scope**

Common driveways may be allowed by Special Permit A3 issued by the Planning Board. A Common Driveway provides common vehicular and pedestrian access, extending from a street, to more than one but not more than three lots. All lots served by the Common Driveway shall satisfy the frontage requirements as defined in Section VI and specified in Section IV-A for the zoning district in which the lots are located. Without limiting the foregoing, access over the frontage must be actual and not illusory. The Planning Board may find frontage to be illusory if the frontage would fail to provide acceptable physical access as contemplated by MGL Chapter 41, Section 81M. Such failure may include, but is not limited to, the inability of the applicant to obtain an order of conditions under applicable state or local wetlands regulations for construction of the access, the presence of distinct physical impediments to threshold access, or extreme lot configurations. Where the proposed development constitutes a subdivision under the Subdivision Control Law, this By-law shall not apply.

3. **Plan Requirements**

A plan shall be prepared and wet stamped with the original signature of a Massachusetts professional civil engineer (the "Design Engineer") at a scale of 1"= 20' or 1" = 40', providing sufficient detail to demonstrate conformance to the Construction and Design Standards detailed below. The plan must clearly depict zoning requirements and potential driveway locations for all lots. Upon completion of construction, a certified as-built must be submitted.

4. **Construction and Design Standards**

All Common Driveways shall conform to the following minimum standards:

- a. Common Driveways shall provide the following minimum easement widths and minimum paved surface widths as applicable:

Use Served	Minimum Easement Width	Minimum Paved Surface Width
Residential	24 Feet	20 Feet
Non-residential	40 Feet	24 Feet

Access roads serving individual lots off of Common Driveways shall comply with 527 CMR 1.00, Chapter 18. The Planning Board may require that the Minimum Paved Surface Width of a Common Driveway serving residential multi-family dwellings, non-residential lots or any combination thereof be increased based on the type and volume of traffic projected to be generated by the proposed development, provided that the Minimum Easement Width must at all times be a least 4' greater than the Minimum Paved Surface Width. If no development is proposed with the application for the Common Driveway, the minimum non-residential standard shall be required. There shall also be provided a 12" cape cod berm on each side of the Common Driveway serving non-residential uses.

- b. Common Driveways shall not exceed 400' in length in residence zoning districts and 800' in all other zoning districts, measured from the street line to the end of the shared portion of the Common Driveway. Where a Common Driveway exceeds 150' in length, turnarounds for emergency vehicles shall be provided in locations

approved by the Fire Department. There must be adequate directional signage provided identifying the addresses served by the Common Driveway for emergency vehicle response, as well as routine traffic.

- c. No Common Driveway shall be allowed to be constructed off any cul-de-sac or dead end of a public or private way. No Common Driveway shall be connected or attached to any other Common Driveway. No Common Driveway shall be extended without prior approval of the Planning Board pursuant to this Section V-I.
 - d. Sight distances at the entrance of a Common Driveway along the intersecting street shall conform to current American Association of State Highway and Transportation Officials (AASHTO) standards and be indicated on the plan.
 - e. To provide better traffic safety and reduce the visual impacts of traffic on abutting properties, the Planning Board may require Common Driveways to be set back a minimum of 15' from lot lines and/or be screened with a buffer of trees and/or shrubs.
 - f. Common Driveways shall be constructed using a minimum 12" thick sorted gravel sub-base. The base course shall be a minimum of 2" binder and the top course for paved driveways shall each be a minimum 1 ½" thickness. Surfacing with gravel, crushed stone, or another permeable or semi-permeable surface may be proposed, especially for use within one hundred feet of a wetland or in other sensitive areas.
 - g. Runoff draining onto abutting properties shall not exceed that which existed prior to construction of the Common Driveway, or be concentrated at any one point of discharge. Runoff shall not discharge into the public way. The Design Engineer shall provide a drainage statement and sufficient analysis to support the proposed storm water drainage system, including pre and post construction flows.
 - h. Common Driveway easements may allow space for installation of water lines and other utilities as needed. Utilities shall be shown on the Common Driveway Plan. The Planning Board may require that utilities be installed underground.
 - i. No portion of a Common Driveway or turning area shall be located above major components of a septic system, including septic tanks, leaching fields, and distribution boxes, except where approved by the Board of Health, and only upon a Finding by the Planning Board that there will be no negative impact on access for the lots served by the Common Driveway during future maintenance or replacement of these components.
5. Common Driveway Easement and Agreement
- Proposed documents shall be submitted to the Planning Board with an application for a Common Driveway Special Permit A3 demonstrating to the satisfaction of the Board through easements, restrictive covenants, or other appropriate recordable instruments that the maintenance, repair, snow removal, and liability for the Common Driveway shall remain perpetually the responsibility of one or more of the record owners of the lots served by the Common Driveway, or their successors-in-interest. Easement areas shall be shown on the Common Driveway Plan. Approved legal documents shall be recorded prior to a) issuance

of a Building Permit for any building to be served by the Common Driveway or b) construction of or improvements to the Common Driveway, whichever occurs first.

V-J. Regulation of the Sale and Consumption of Marijuana Not Medically Prescribed

Repealed in its entirety – 2018 Annual Town Meeting

V-K. Accessory Dwelling Units

1. Purpose

The purpose of permitting dwelling units accessory to single-family dwellings is to:

- a. Provide accessory dwelling units without significantly adding to the number of buildings in the Town or substantially altering the appearance of the residential property and for the purpose of enabling owners of single-family dwellings to share space and the burdens of homeownership with others while also protecting the stability, property values and residential character of the surrounding neighborhood.
- b. Provide housing units for persons with diverse housing needs including, without limitation, persons with mental and physical disabilities.
- c. Enable the Town to monitor accessory dwelling unit construction for code compliance.

2. Definitions

- a. An "accessory dwelling unit" is a second self-contained dwelling unit within a single-family dwelling or a detached structure accessory thereto, which second dwelling unit is subordinate in size to the principal dwelling and otherwise complies with the provisions of this Section V-K.
- b. A "principal dwelling" for the purposes of this Section V-K is a single-family dwelling exclusive of the area that constitutes the accessory dwelling unit.
- c. A single-family dwelling with an accessory dwelling unit shall not be deemed to be a two-family dwelling.

3. Eligibility Requirements

The Board of Appeals may only issue a Special Permit A1 for an accessory dwelling unit that meets the following minimum eligibility requirements:

- a. As of the date that the application for a special permit is filed with the Board of Appeals, the total number of accessory dwelling units in the Town shall not exceed two and one-half percent (2.5%) of the total single-family dwelling units in the Town (the "ADU Cap"). The ADU Cap shall be determined by a fraction represented as follows: the numerator shall be the total number of accessory dwelling units allowed by special permit pursuant to this Section V-K plus the number of accessory dwelling unit permit applications pending approval before the Board of Appeals and the denominator shall be the total number of single-family dwelling units existing in the Town as classified in the Hingham assessors' records.

- b. The applicant shall, at the time application is made for the special permit, be the owner of the lot and single-family dwelling thereon where the accessory dwelling unit is proposed and must certify in such application that the owner currently occupies the single-family dwelling or will occupy the principal dwelling or accessory dwelling unit as his or her primary residence immediately upon issuance of the special permit.
 - c. The area of the lot on which the existing single-family dwelling is located shall not be less than five thousand (5,000) square feet for an accessory dwelling unit within the principal structure or ten thousand (10,000) square feet for an accessory dwelling unit in a detached accessory structure. In the case of new construction, the area of the lot shall comply with the applicable minimum lot size for the single-family zoning district in which the single-family dwelling is proposed.
 - d. The application must be accompanied by written confirmation from either (i) the Board of Health that the requirements of the Massachusetts Title 5 septic system regulations and the Hingham Board of Health Supplemental Rules and Regulations for septic systems have been or can be met or (ii) the Sewer Department that there exists available capacity in the applicable sewer district, in either case, to support the total number of bedrooms proposed for the lot inclusive of the accessory dwelling unit.
 - e. Only one accessory dwelling unit shall be permitted per lot so that the total number of dwelling units per lot shall not exceed two.
 - f. In Residence District D and in Business Districts A and B accessory dwelling units are only permitted in connection with preexisting nonconforming single-family dwellings.
4. Dimensional and Design Requirements Applicable to All Accessory Dwelling Units
The Board of Appeals may only issue a Special Permit A1 for an accessory dwelling unit that meets the following dimensional and design requirements:
- a. The architectural character of a single-family dwelling shall be maintained.
 - b. All stairways accessing an accessory dwelling unit above the ground floor of a single-family dwelling or detached accessory structure shall be enclosed within the exterior walls of the single-family dwelling; provided, however, that the Board of Appeals may waive this requirement for an unenclosed stairway on the rear of a structure to access an accessory dwelling unit located on the second floor of an existing building.
 - c. The maximum area of an accessory dwelling unit shall be the lesser of 875 square feet or 35% of the gross floor area of the principal dwelling. For this calculation, the gross floor area shall be as defined in Section VI of this By-Law.
 - d. Notwithstanding the provisions of Section III-I,2 of the Zoning By-Law, no accessory dwelling unit shall be created by any extension of a non-conforming building dimension, including the front, side or rear yard setback.
 - e. Any new entrance for the accessory dwelling unit or principal dwelling shall be located to the side or rear of the single-family dwelling or detached accessory structure.

- f. Water and sewer utilities serving the accessory dwelling unit shall not be metered separately from the principal dwelling; provided, however, that the Board of Appeals may waive this requirement for an accessory dwelling unit with a lawfully existing structure which already maintains separately metered utilities, if the request is accompanied by the written approval of the appropriate utility, upon a finding that a waiver advances the purposes of this bylaw.
 - g. Additional or modified landscaping, fences or other buffers may be required to protect abutting properties from potential negative visual or auditory impacts of the accessory dwelling unit.
 - h. The parking requirement for an accessory dwelling unit is one space per bedroom in addition to the minimum required parking spaces for a single-family dwelling.
 - i. An accessory dwelling unit may not have more than two (2) bedrooms.
5. Additional Requirements Applicable to Accessory Dwelling Units in Detached Accessory Structures
- The Board of Appeals may only issue a Special Permit A1 for a detached accessory dwelling unit that meets the following dimensional and design requirements:
- a. The detached accessory dwelling unit shall comply with all building dimensions, including the front, side or rear yard setback and height limitations. Notwithstanding the foregoing, the Permit Granting Authority may waive the preceding requirements for an accessory dwelling unit within a lawfully existing nonconforming detached accessory structure to no less than 10' from a side or rear property line upon a finding that there will be no potential negative visual or auditory impacts associated with the accessory dwelling unit that cannot be mitigated.
 - b. The detached accessory dwelling unit shall be located a minimum of 10' from the principal dwelling and (i) to the rear of the principal single-family dwelling or (ii) to the side of the single-family dwelling at a minimum position 10' further back from the front plane of the single-family dwelling.
6. General Conditions
- Any special permit issued pursuant to this Section V-K shall be subject to, and shall incorporate the following conditions:
- a. The owner of the single-family dwelling shall occupy either the principal dwelling or the accessory dwelling unit as the owner's primary residence. Temporary absences of the owner for a period of not more than six months in the aggregate in any twelve month period and active military service of the owner for any length of time shall not be deemed a violation of this requirement.
 - b. The owner shall recertify annually, by submission of a notarized letter to the Building Commissioner, that the owner will continue to occupy either the primary dwelling or the accessory dwelling unit as the owner's primary residence, except for a bona fide temporary absence as provided above in subsection 6.a.
 - c. Upon the sale or other conveyance or transfer of a single-family dwelling which has been issued a permit for an accessory dwelling unit, if the new owner wishes

to maintain the special permit for the accessory dwelling unit use, such new owner must, within thirty (30) days of such transfer, submit a notarized letter to the Building Commissioner certifying that the new owner will occupy one of the dwelling units as the new owner's primary residence and comply with the other conditions of the accessory dwelling unit use.

- d. Neither the principal dwelling nor the accessory dwelling unit may be sold or otherwise conveyed or transferred separately from the other.
- e. The accessory dwelling unit or the principal dwelling, whichever is not owner-occupied, shall have a minimum occupancy or rental term of 6 months.

SECTION VI.

Definitions

In this By-Law, the following terms shall have the following meanings, unless a contrary meaning is required by the context, or as specifically prescribed, as in Sections III-D, IV-D and V-B of the By-Law.

Accessory Buildings

A building customarily incidental to and located on the same lot with a principal building or on an adjoining lot under the same ownership.

Agricultural Uses

Commercial agriculture, horticultural and such other uses defined in and/or governed by the first paragraph of Massachusetts General Laws Chapter 40A, Section 3, as the same may be amended from time to time.

Alteration of Drainage Patterns

Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater in the area.

Apartment House

A structure utilized wholly for residential dwelling units (and permitted uses accessory thereto) and containing three or more dwelling units.

Automotive Filling Station

A building or premises primarily used for retail sale of automotive fuels and lubricants and automotive accessories, and which may include facilities of secondary importance for servicing, lubricating, polishing and inspecting motor vehicles, but not painting thereof by any means.

Basement

That portion of a Building which is partly or completely below Finished Grade. See also definition of Story (above grade).

Body Art

The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: Body Piercing, Tattooing and Cosmetic Tattooing, as defined by the Board of Health. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine of the Commonwealth, such as implants under the skin.

Body Art Establishment

A specified place or premise that has been granted a Permit by the Board of Health, whether public or private, where the practices of body art are performed, whether or not for profit.

Building

An independent structure having a roof supported by columns or walls resting on its own foundation and designed for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

Business Office or Agency

Administrative, executive, research, servicing, processing or similar businesses or organizations having only limited face-to-face contact with the general public. See also, Professional Office or Agency.

Clinic

A facility providing medical, dental, surgical, psychiatric, therapeutic, diagnostic or other health care service with no overnight patient facilities.

Commercial/Residential Building

A building containing commercial uses on the ground floor and a dwelling unit or unit(s) above the ground floor. A Commercial/Residential Building may also contain commercial uses above the ground floor, but in no event shall residential uses be permitted on or below the ground floor, except as expressly provided in this By-law.

Commercial Service Establishment

An establishment primarily engaged in providing services on-site, including walk-in services, directly to individual or businesses, such as printing, copying, shipping, but excluding Business Offices. See also, Service Business.

Congregate Living Facility

A facility providing private or communal lodging for elderly persons, including those requiring limited medical attention or supervision and who ordinarily are ambulatory. In addition to bed space, such facilities may include semi-private or private food preparation facilities, semi-private or private living rooms, common dining facilities, and common, semi-private or private bath and toilet facilities.

Consumer Service Establishment

An establishment primarily engaged in providing personal services directly to consumers on-site, such as hair or nail salons, drop-off/pick-up dry cleaner, tailor, shoe repair, animal grooming and educational services such as tutoring, but excluding medical or dental professional offices and health clubs. See also, Service Business.

Craft Establishment

Any business establishment that produces on the premises non-edible articles for sale on the premises of artistic quality or effect or handmade workmanship directly to the public, including handmade articles for production by the public on-site. Examples include weaving, pottery, painting, sculpting, candle-making, and associated activities. Craft Establishment shall be considered a "Retail Business" for the purpose of determining off-street parking requirements.

Critical Root Zone (CRZ)

The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk and extending outward towards the tree's dripline. The minimum area of the CRZ shall be dependent on the required minimum radius of the CRZ; the required minimum radius of the CRZ shall be determined by multiplying a Tree's DBH (in inches) by twelve (12) inches, with the resulting product constituting the minimum radius of the CRZ. Example: A tree with a DBH of twenty (20) inches shall have a CRZ with a minimum radius of 20 feet ($20'' \times 12'' = 240''$ or 20').

Diameter at Breast Height (DBH)

The standard measure of Tree size. It means the diameter of the trunk of a Tree measured in inches outside the bark at a height of four and one-half feet (4 feet 6 inches) above the existing grade at the base of the Tree. If a Tree splits into multiple trunks below the measurement point, the DBH shall be measured at the narrowest point beneath the split. All measurements shall be rounded up to the nearest inch.

Dwelling

A building or portion thereof designed exclusively for residential occupancy, including single-family dwelling, two-family dwelling, and multi-unit dwellings, but not including hotels, motels, boarding houses, tourist home or bed and breakfast establishments, or trailers, or structures solely for use of transient or overnight occupants.

Dwelling Unit

One or more rooms providing complete living facilities for one household, including rooms and facilities for living, sleeping, eating, cooking and sanitation.

Elderly Person(s)

One person who is 62 years of age or over, or two persons, sharing a dwelling unit, the elder of whom is 62 years of age or over.

Erosion

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic and the subsequent detachment and transportation of soil particles.

Family

One or more persons of recognized family relationship maintaining a common household, including domestic help.

Farmers' Market

An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public from booths located on-site "agricultural products" (fresh produce, seasonal fruits, and fresh flowers), freshly caught seafood ("seafood"), "freshly prepared foods" packaged for sale, "arts and crafts items", and beverages. To classify as a Farmers' Market, the following must apply:

1. Agricultural products, seafood and freshly prepared foods must be grown, caught or prepared directly by the vendor or acquired by the vendor directly from an identified local producer. Freshly prepared foods (for example, baked goods, jams, dressings, salsa) must be locally produced and packaged.
2. The majority of the vendors in the Market shall not be vendors of arts and crafts items. Any arts and crafts items must be created by the vendor offering such items for sale at the Market.

Fast Food/Take-Out Restaurant

An establishment offering prepared foods and beverages on a self-serve basis or ordered at a counter, to be consumed on or off the premises.

Floor Area Ratio

The total gross floor area of all buildings on one lot divided by the total area of the lot.

Frontage

The distance between adjacent intersections of lot and street sidelines measured in a continuous line along the street sideline over which vehicular and pedestrian access to the lot must be attainable.

Garden Apartment

A building designed to accommodate more than two dwelling units, with each entrance serving not more than four dwelling units, each of which extends through the building from front to rear.

General Business Office – See "Business Office or Agency".**Grade, Finished**

The topography of a site at the completion of construction.

Grade Plane

A reference plane representing the average of Finished Grade intersecting the Building at all exterior walls. Where the Finished Grade slopes away from the exterior walls, the reference plane for such side of the Building shall be established by using, instead of the measurement at the Building, the average of the lowest

points within the area between the Building and the lot line or, where the lot line is more than 10 feet from the Building, between the Building and a point 10 feet from the Building.

Grade, Pre-Construction

The existing topography of a site prior to any disturbance for new construction. This must be certified by a registered professional civil engineer or land surveyor.

Gross Floor Area

The sum of the horizontal surfaces of all floors of a building measured from the interior faces of exterior walls or from the centerlines of party walls, including all porches or balconies. Areas used for accessory garage purposes and areas used exclusively for heating, cooling, mechanical and electrical equipment necessary to the operation of the building may be excluded from GFA.

Ground Floor

Within the Downtown Hingham Overlay District, the floor of a Building that exits directly at street level. For any Building having more than one floor that exits directly at street level each such floor shall constitute a "ground floor".

Half-Story (1/2 Story)

A floor level situated wholly or partly under a sloping roof, suitable for any use permitted in the Zoning District, in which the ceiling area (in plan projection) at a height of at least 7'-3" above the finish floor is not more than ½ the area of the floor level next below.

Health Club

An establishment that provides members and non-members with equipment, space, and/or facilities for the purpose of physical exercise as a primary or secondary use.

Height, Building

The vertical distance from Grade Plane to the height of the highest roof surface, peak or parapet. See also section IV-C, 8 for general height exceptions.

Home Occupation

An accessory use involving the production of goods or services, the giving of lessons for compensation, or the performance of custom work of a domestic nature conducted from a dwelling by a resident thereof and which does not change the dwelling's residential character.

House Trailer or Mobile Home

A vehicle, designed to be drawn by a motor vehicle, which is used for sleeping or living purposes, whether standing on wheels or rigid supports.

Land Disturbance

Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. Land disturbance activities include demolition, construction, reconstruction, clearing, excavation, grading, filling, or creation of impervious surface.

Light Industry

Activity concerned with the manufacturing, storage, processing, fabrication, packaging and assembly of products developed from previously refined or similarly processed raw materials, provided, however, that no activity may be considered light industry if such activity:

1. results in the production of low level or high level radioactive waste;
2. results in ambient noise levels exceeding the standards set forth in Section V, Special Regulations, V-D, Noise, of this By-Law;

3. causes ground transmitted vibrations which exceed the following levels identified by the International Organization of Standards (ISO) 2631 draft addendum ISO DAD Roman Numeral I (1980) Guide to the Evaluation of Human Exposure to Vibration and Shock in Buildings when measured at a residential building by a three component measuring system capable of measurement of vibration in three mutually perpendicular directions:

<u>ISO Standard</u>	
Daytime and Evening (7:00 A.M. - 9:00 P.M.)	Residential Daytime
Nighttime (9:00 P.M. - 7:00 A.M.)	Residential Nighttime

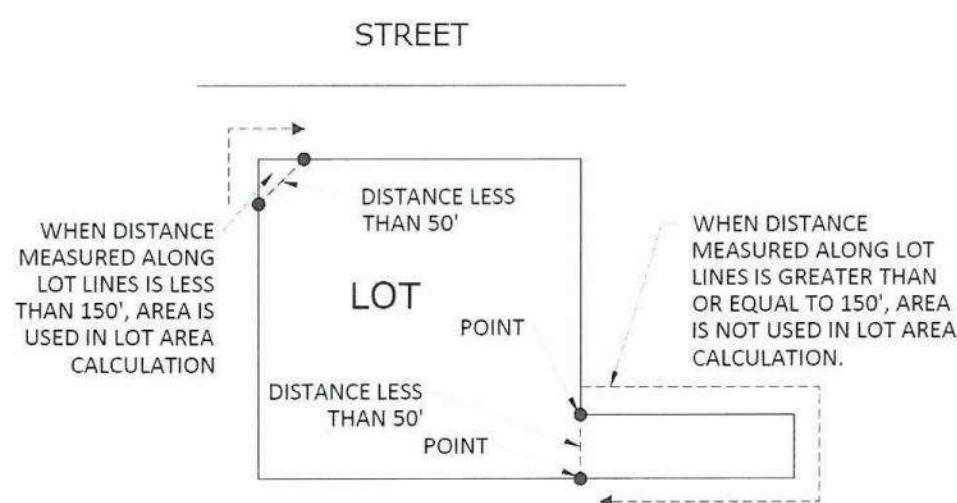
4. or produces any other measurable air, water or soil pollution not in conformance with the Rules and Regulations of the Department of Environmental Protection of the Commonwealth of Massachusetts for the control of pollution.

Lot

A single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or in a recorded plan.

Lot Area

The total land area of a lot expressed in terms of square feet or acres. When the distance between any two (2) points on lot lines is less than fifty (50) feet, measured in a straight line, the smaller portion of the lot which is bounded by such line and lot lines shall only be considered in computing minimum lot area if the distance along such lot lines between such two points is less than one hundred and fifty (150) feet.



Lot Line, Front

The property line dividing a lot from a street right-of-way. In the case of a lot bounded by more than one street, the front lot line of greatest length shall be known as the primary front lot line. When a lot has front lot lines of equal length, the owner shall designate a single front lot line as the primary front lot line on the applicable plan and/or application.

Lot Line, Rear

The property line most nearly opposite and furthest from the front lot line or primary front lot line in the case of lots bounded by more than one street. In some cases, there may be no rear lot line.

Lot Line, Side

Any property line not a front or rear lot line.

Lot Width

The horizontal distance between side lot lines, measured parallel to the lot frontage.

Mean High Water Line

1. For tidelands, the present mean high tide line as established by the arithmetic mean of the water heights observed at high tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) as determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce; and
2. For great ponds, rivers and streams, the present arithmetic mean of high water heights observed over a one-year period using the best available data as determined by the Planning or Appeals Boards.

Media Broadcasting or Production Studio

An establishment which engages in production or broadcast of content for television, cable, internet, or other media.

Medical or Dental Office

An office used exclusively by physicians, dentists, and similar healthcare professionals for the treatment and examination of patients and clients on an outpatient basis.

Multi-Unit Dwelling

A building intended and designed to contain three or more dwelling units.

Nonconforming Structure

A structure not in conformance with one or more provisions of this By-Law which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the structure not in compliance, but not including a nonconforming structure resulting from a Variance or other relief granted by the Board of Appeals.

Nonconforming Use

A use of a building, structure or land not in conformance with one or more provisions of this By-Law which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the use not in compliance, but not including a nonconforming use resulting from a Variance or other relief granted by the Board of Appeals.

Outdoor Concession

The sale of non-alcoholic beverages and snack foods from a counter accessible from the outside of a building or from a temporary outdoor location, providing no indoor seating and operating only during the hours that athletic activities are occurring at the site.

Premises

A lot together with all structures, buildings, and uses thereon.

Private Passenger Vehicle

A motor vehicle used by an individual or family for personal transportation.

Professional Office or Agency

The office of a member of a recognized profession, including but not limited to accountants, architects, doctors and physicians, dentist, engineers, real estate or insurance brokers and lawyers, but excluding businesses defined under Business Office or Agency, Consumer Service Establishment and Professional Studio.

Professional Studio

The studio of an artist, a musician or a photographer, provided such studio may also constitute a Craft Establishment or a Consumer Service Establishment if the primary use of such space meets the definition of such an establishment.

Protected Tree

A tree with the following characteristics: (a) currently exists or was removed within twelve (12) months prior to application for a demolition permit, building permit, or zoning approval or relief, (b) is not designated as Invasive by the Massachusetts Invasive Plant Advisory Group, (c) has or had a DBH of six (6) inches or greater, (d) in the case of a single-family dwelling lot or two-family dwelling lot, has or had any portion of the four and one-half feet (4 feet 6 inches) of its stem growing in the Tree Yard of such lot, and (e) in the case of a lot for any other use, is or was located anywhere on such property. Notwithstanding the foregoing, the following shall not be considered Protected Trees: (x) shade trees pursuant to MGL Chapter 87, (y) trees on public property, (z) trees that are hazardous due to disease, age, or shallow roots, as certified in writing by a certified arborist.

Recorded or Of Record

Recorded or registered in the Plymouth County Registry of Deeds or a record title to a parcel of land disclosed by any or all pertinent records.

Roof Deck

An uncovered flat surface on the roof of a structure for use for outdoor passive recreation. Uncovered shall mean that no covering structures of any kind, including a roof trellis, shall be permitted.

Service Business

For the purpose of determining off-street parking requirements the following shall each be considered a Service Business: Commercial Service Establishment, Consumer Service Establishment, and Craft Establishment.

Shopping Center

A group of three or more retail and other commercial establishments that are planned and managed as a single property.

Shoreline

The water side face of waterfront retaining walls.

Significant Tree

A Protected Tree which has a DBH of thirty (30) inches or greater.

Single-Family Dwelling

A free standing dwelling, excluding house trailers and mobile homes, intended and designed to be occupied by a single dwelling unit. For all purposes in the By-law, including the provisions set forth in Section III-I, single-family dwellings shall include attached garages, or other fully enclosed, attached structures, whether heated or unheated, connected to the primary structure.

Sit-Down Restaurant

An establishment offering prepared foods and beverages to be primarily ordered, served and consumed at tables on the premises. Does not permit drive-thru service.

Sit-Down Restaurant Service Rate

An anticipated peak service capacity of not more than 40 persons per hour, per 1,000 square feet of gross floor area.

Slope

Amount of deviation of a surface from the horizontal, measured as a numerical ratio, as a percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second number is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope.

Special Permit Granting Authority or SPGA

The Board of Appeals or the Planning Board as provided in the applicable section of this Zoning By-Law.

Street

1. A public way or way which the Clerk of the Town certifies is maintained and used as a public way; or
2. A way shown on a plan approved or endorsed in accordance with the Subdivision Control Law; or
3. A way in existence when the Subdivision Control Law became effective in the Town of Hingham having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Story (above grade)

That portion of a Building included between the upper surface of a floor and the upper surface of the floor or roof next above having its finished floor surface entirely above Finished Grade, except that a Basement shall be considered as a Story (above grade) where the finished surface of the floor above the Basement is:

1. more than five feet above the highest elevation of Pre-Construction Grade where it intersects the building perimeter wall at any point; or
2. more than six feet above Grade Plane; or
3. more than six feet above the Finished Grade where it intersects the perimeter wall for more than 50% of the total building perimeter; or
4. more than 12 feet above the Finished Grade where it intersects the perimeter wall at any point.

See also definitions of Half Story (1/2 Story) and Basement.

Structure

Anything constructed or erected at a fixed location on the ground to give support, provide shelter, or satisfy other purposes, but excluding a fence or wall six (6) feet or less in height, a sign, a flagpole, and a public utility pole. In residential districts, "structure" shall further exclude one detached accessory building per lot, provided that said accessory building does not exceed sixty-four (64) square feet in ground coverage and nine (9) feet in height, and further provided that said accessory building is located to the rear of the dwelling and no closer than five (5) feet from the side or rear lot line. In residential districts, and for any lot that abuts a residential district, "structure" shall include, without limitation, mechanized or motorized equipment that is placed or installed at a fixed location on the ground, or at a fixed location on a pad, platform or foundation that itself is on or in the ground, which equipment is used to ventilate, heat or cool a building or structure, or to heat or filter water, unless such equipment is fully enclosed in an accessory building that is permitted under this By-Law.

Town House

A dwelling unit, attached by party walls on one or both sides to one or two other dwelling units, which has its own ground level entrance and front and rear yards.

Tree Yard

The 10' area of a Single-Family Dwelling lot or Two-Family Dwelling lot located adjacent to all front, side, and rear lines of a lot.

Two-Family Dwelling

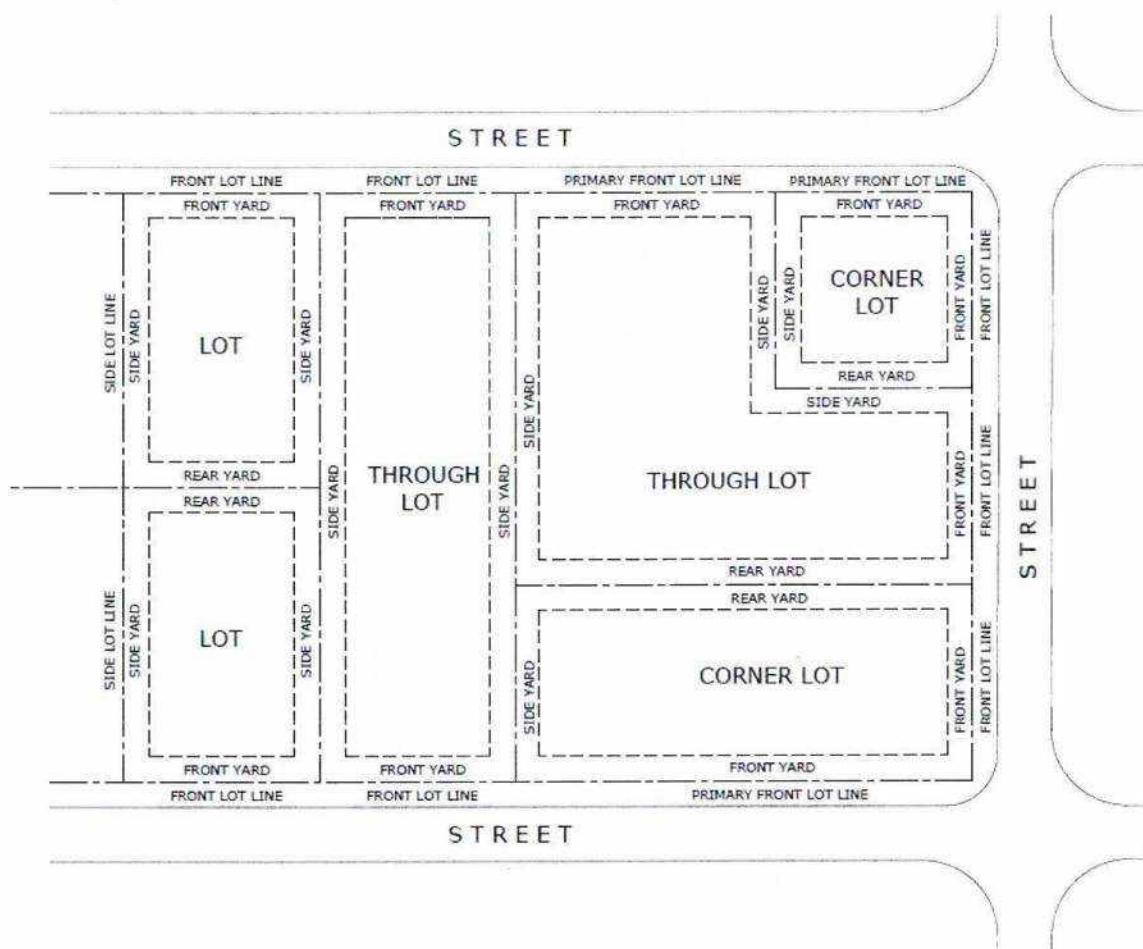
A dwelling intended and designed to be occupied as two separate dwelling units. For all purposes in the By-Law, including the provisions set forth in Section III-H, two-family dwellings shall include attached garages, or other fully enclosed, attached structures, whether heated or unheated, connected to the primary structure.

Wireless Communications Tower

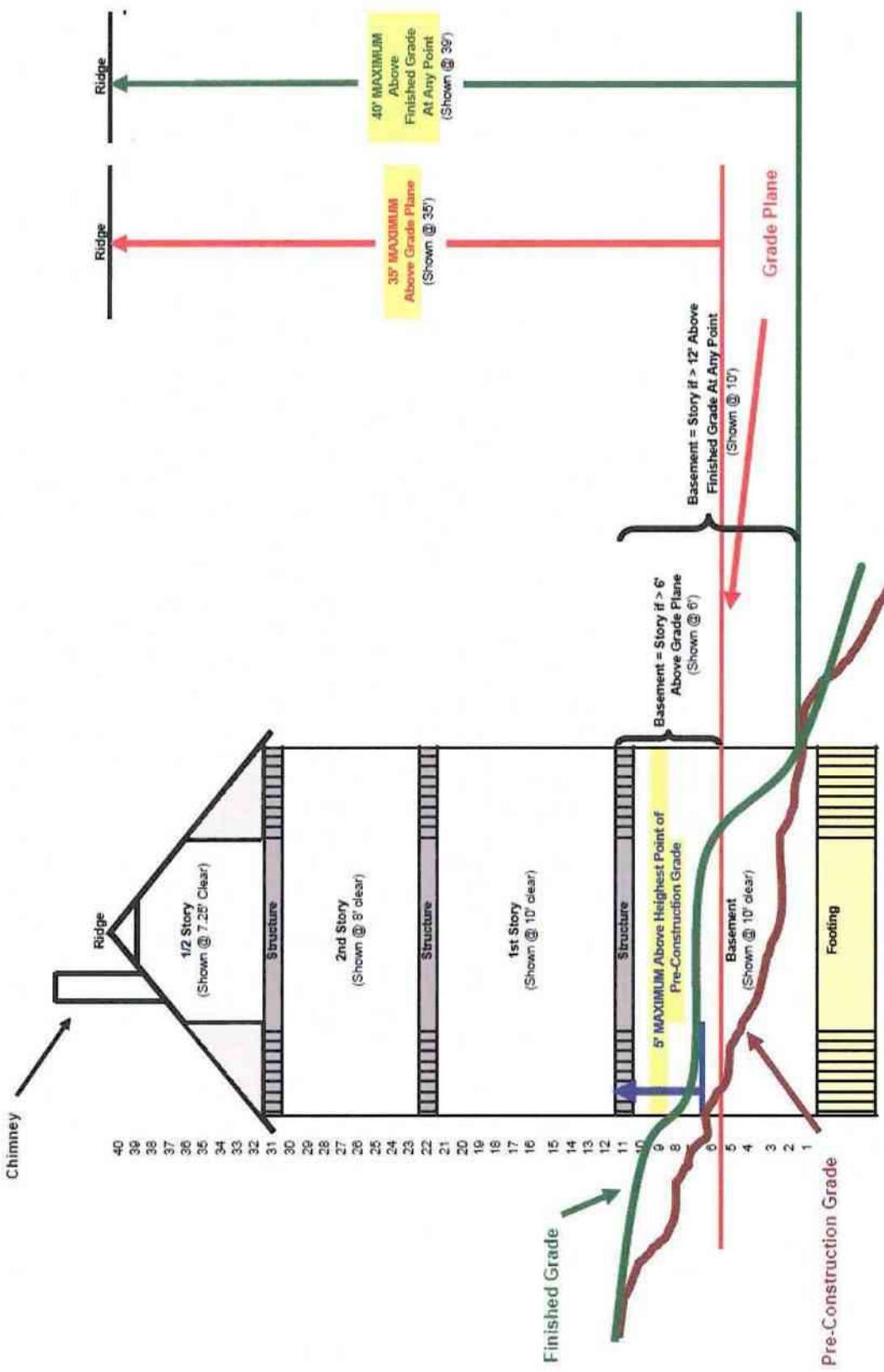
A structure including antennas and other similar wireless communications devices designed to facilitate the following types of services: cellular telephone service, personal communications service, and extended specialized mobile radio service.

Yard: Front, Side, Rear

An unoccupied space open to the sky on the same lot with a building or structure. The drawing that follows illustrates the positions of the front, side and rear yards.

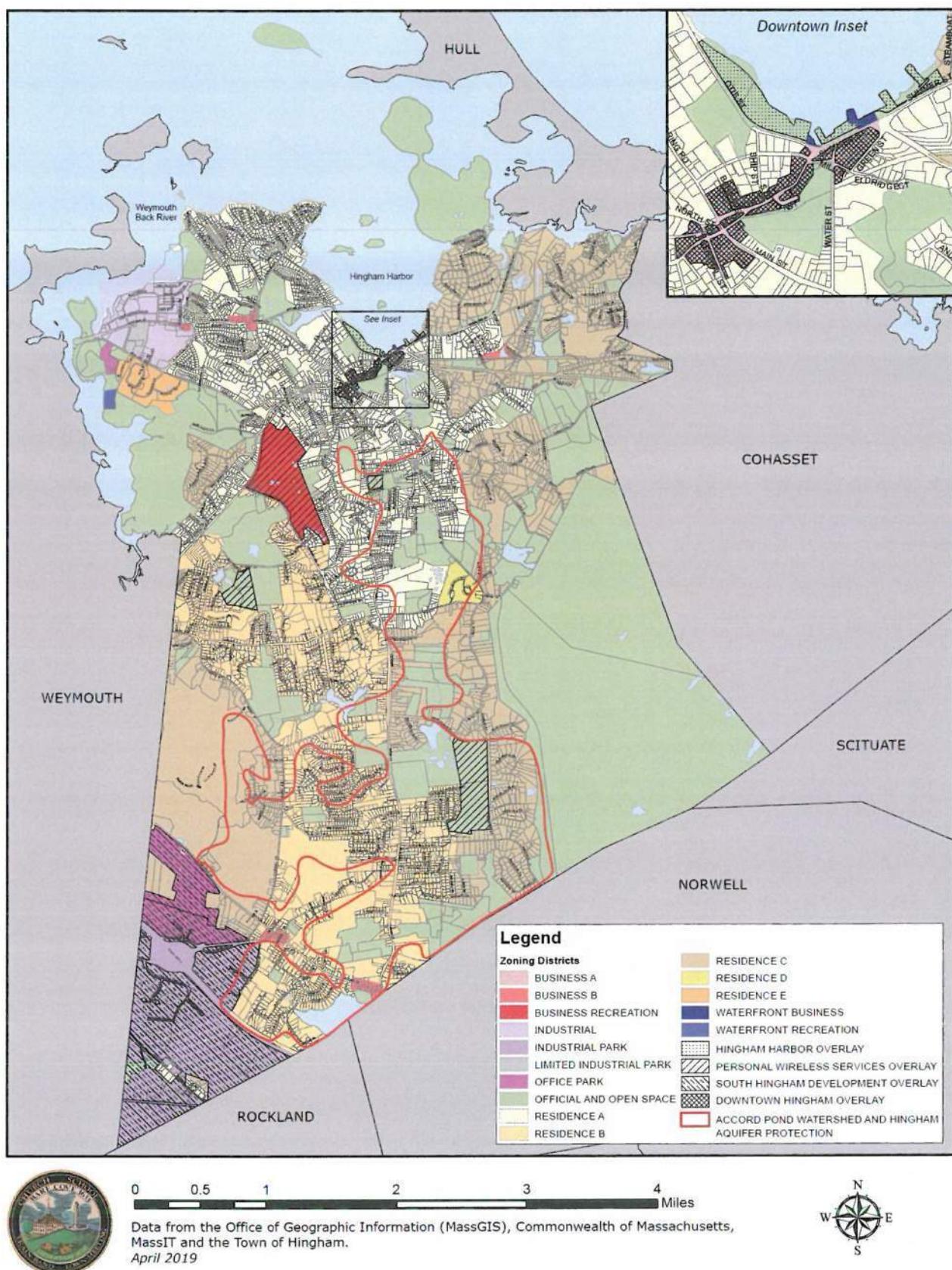


Annex "A", Building Height Diagram



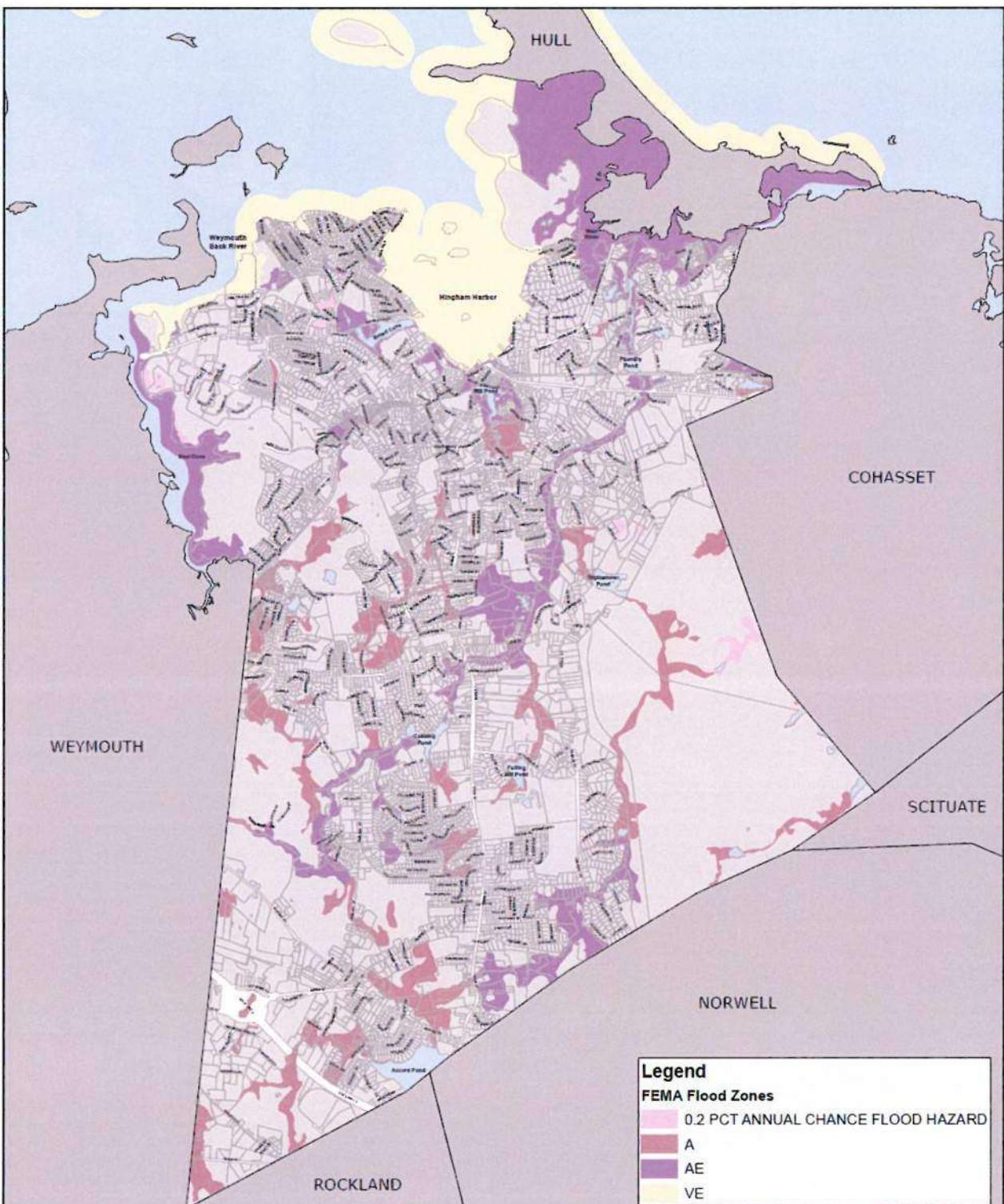
3/15/2005

Hingham Massachusetts Zoning Parts A and C



Hingham Massachusetts

Zoning Part B Floodplain Protection Overlay District



0 0.5 1 2 3 4 Miles

Data from the Office of Geographic Information (MassGIS), Commonwealth of Massachusetts,
MassIT and the Town of Hingham.
May 2021



The Town of Hingham makes no warranty or guarantee of the accuracy of the maps nor assumes responsibility for any errors or inaccuracies in these maps. The Town also takes no responsibility for any decision(s) made or action(s) taken as a result of reliance on these maps. The use of these maps is at the users' own risk. Flood zone designations are based on 2012 and 2021 Flood Insurance Rate Maps issued by FEMA and revised by Letters of Map Revision effective August 14, 2015, September 8, 2017, and December 13, 2017 for the administration of the National Flood Insurance Program.

Tighe&Bond

EXHIBIT B

ZONING

Chapter 120

Town

of

WEYMOUTH

**GENERAL
CODE**

*781 Elmgrove Road
Rochester, New York 14624
800-836-8834 • www.generalcode.com*

Printed June 2024

A TRUE COPY
ATTEST:

Kathleen G. Derge

TOWN CLERK

Chapter 120

ZONING

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[HISTORY: Adopted by the Town of Weymouth at the September 1969 STM by Arts. 4 and 5, approved 1-21-1970. Amendments noted where applicable.]

ZONING

GENERAL REFERENCES

Regulations affecting use of private property — See Ch. 7.
Public works — See Ch. 8.

**ARTICLE I
General Provisions**

§ 120-1. Title.

This regulation shall be known and may be cited as the "Weymouth Zoning Ordinance."

§ 120-1.1. Transition.

This ordinance is a transition of the Weymouth Zoning Bylaw. By way of transition, the following interpretations shall be made:

- A. Wherever the word "bylaw" appears, it shall mean "ordinance."
- B. All effective dates under the Zoning Bylaw shall be applicable to the Zoning Ordinance.
- C. Zoning adopted September 1969 Special Town Meeting by Articles 4 and 5, approved by the Attorney General January 21, 1970. Amendments are noted in the ordinance where applicable.
- D. The Board of Zoning Appeals shall be the special permit granting authority, and all sections referring to the Board of Selectmen and Planning Board as the special permit granting authority shall mean the Board of Zoning Appeals.
- E. All references to a board or commission that has been changed by the Weymouth Home Rule Charter shall mean the appropriate agency as established under the Charter. Any interpretation as to Town agency applicability shall be the made by the Inspector of Buildings.
- F. Copies of special permit legal notices and applications shall be distributed to all Councilors. The Town Council may, after review of the application at a regular meeting with citizen input, submit comments and recommendations to the Board of Zoning Appeals for the public hearing.

§ 120-2. Purpose. [Amended October 1975 STM by Art. 18, approved 1-26-1976; June 1978 STM by Art. 3, approved 11-2-1978]

- A. The purpose of this bylaw is to:

- (1) Promote the health, safety, morals, convenience and general welfare of the inhabitants of the Town of Weymouth.
- (2) Lessen congestion in the streets.
- (3) Conserve health.
- (4) Secure safety from fire, flood, panic and other dangers.
- (5) Provide adequate light and air.

- (6) Prevent overcrowding of land.
 - (7) Avoid undue concentration of population.
 - (8) Encourage housing for persons of all income levels.
 - (9) Facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open spaces and other public requirements.
 - (10) Conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment.
 - (11) Encourage the most appropriate use of land throughout the Town.
 - (12) Preserve and increase amenities by the promulgation of regulations to fulfill said objectives.
- B. This bylaw includes but is not limited to restricting, prohibiting, permitting or regulating:
- (1) Uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding.
 - (2) Size, height, bulk, location and use of structures, including buildings and signs.
 - (3) Uses of bodies of water, including watercourses.
 - (4) Noxious uses.
 - (5) Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces.
 - (6) Density of population and intensity of use.
 - (7) Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space.
 - (8) The development of the natural, scenic and aesthetic qualities of the community.

§ 120-3. Scope.

In their interpretation and application, the provisions of this bylaw shall not in any way impair or interfere with the provisions of other regulations or laws or with the provisions of private restrictions placed upon property by covenant, deed or other private agreement or with provisions of restrictive covenants running with the land to which the Town is a party. Where this bylaw imposes a greater restriction upon land, buildings or structures than is imposed or required by any of the aforesaid provisions, the provisions of this bylaw shall prevail.

§ 120-4. Severability.

Should any section or provision of this bylaw be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the bylaw as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE II
Definitions and Word Usage

§ 120-5. Word usage.

Words used in the present include the future; the singular includes the plural and the plural the singular. The word "used" includes "designed, intended or arranged to be used." The word "shall" is mandatory; the word "may" is permissive; the word "lot" includes the word "plot"; the word "land" includes the words "marsh" and "water." The following terms, for the purpose of this bylaw, are defined below.

§ 120-6. Definitions.

In this bylaw, the following terms and words, unless a contrary meaning is specifically prescribed, shall have the following meanings:

ACCESSORY BUILDING — A subordinate building, the use of which is customarily incidental to that of a principal building and the principal use of the lot.

ACCESSORY HOME OFFICE — An office of a business located within the principal building of the premises of a resident conducting a business, such as consulting, marketing, mail order, data processing, an office for any service business person or any trades person and other similar office, but not including any storage of product or materials for resale, stock of materials for use in a service business, open lot storage, dispatching or repair service of any kind. **[Added May 1999 ATM by Art. 19, approved 8-19-1999]**

ACCESSORY USE — The subordinate use of a building or premises for a purpose customarily incidental to a main or principal use permitted in the district in which it is located.

ADULT BOOKSTORE — An establishment having, as a substantial or significant portion of its stock-in-trade, books, magazines, videos and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. **[Added June 1994 STM by Art. 5, approved 8-25-1994]**

ADULT CLUB — An establishment which, as a form of entertainment, allows a person or persons to perform in a state of nudity, as defined in MGL c. 272, § 31, or allows a person or persons to work in a state of nudity, as defined in MGL c. 272, § 31. **[Added May 1996 ATM by Art. 54, approved 9-9-1996]**

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. **[Added June 1994 STM by Art. 5, approved 8-25-1994]**

ALLEY — Any public space or narrow thoroughfare 20 feet or less, but not less than 12 feet, in width, which has been dedicated or deeded to the public for public travel and which affords secondary access to abutting property.

ALTERATION — A change in or addition to a building which modifies its location, plan, manner of construction or the kind of materials used, or in any way varies the character of its use.

APARTMENT — See "dwelling unit."

APARTMENT HOTEL — A building containing four or more apartments which do not have kitchens, primarily for persons who have their residence therein.

APARTMENT HOUSE — See "dwelling, multiple."

ATTACHED — Connected to or united with.

ATTIC — The space between the ceiling beams of the top habitable story and the roof rafters.

BASEMENT — A story of a building or structure having 1/2 or more of its clear height below grade.

BILLBOARD — A structure, either freestanding or affixed to a building, the surface of which is for hire for advertising purposes.

BUILDING — A structure forming a shelter for persons, animals or property and having a roof, exclusive, however, of such frameworks and tents as are customarily used exclusively for outdoor carnivals, lawn parties or like activities. When the content allows, the word "building" shall be construed as though followed by the words "or part thereof."

BUILDING LINE — The line established by law parallel to the street line beyond which a building shall not extend, except as specifically provided by law.

BUSINESS — The transacting or carrying on of a trade or commercial enterprise, with a view to profit or for a livelihood.

CORNER LOT — A lot bounded on two or more sides by intersecting streets or ways.

COURT — An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COURT, INNER — A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

COURT, OUTER — A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

CUSTOMARY HOME OCCUPATION — Occupations customarily conducted entirely within a dwelling unit, such as custom dressmaking, millinery, tailoring, fabric sewing, home cooking and preservation and similar domestic crafts, but not including barbershops, beauty parlors, hairdressers, dance studios, schools and repair services of any kind.

DRIVE-IN RESTAURANT — A restaurant which has a primary function of window or curb service.

DRIVEWAY — A private way for vehicles to move between the frontage and a location within a lot, provided that a driveway shall not be used to connect a lot through any portion of another lot. [Amended May 1985 ATM by Art. 44, approved 7-25-1985]

DUPLEX HOUSE — A house containing two apartments adjoining side by side, that is, one in which no part of one apartment is over any part of another apartment. A duplex house shall be considered as one main building occupying one lot for the purpose of determining yard requirements.

DWELLING — A building or portion thereof used exclusively for residential occupancy, including one-family, two-family and multifamily dwellings, but not including hotels, motels, lodging houses, boardinghouses or touring homes.

DWELLING, MULTIPLE — A building or portion thereof used for occupancy by three or more families living independently.

DWELLING, ONE-FAMILY — A detached building containing one dwelling unit.

DWELLING, TWO-FAMILY — A detached building containing two dwelling units.

DWELLING UNIT — A room or suite of rooms used by one family as a habitation which is separate from other rooms or suites of rooms and which contains cooking and sanitation facilities.

EARTH or EARTH PRODUCTS — Includes sod, topsoil, loam, sand, stone and gravel taken from the land.

ESSENTIAL SERVICE — The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead electrical, gas, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including essential physical construction, equipment and accessories in connection therewith, but not including buildings.

FAMILY — A person or group of persons of immediate kindred who live together as a single housekeeping unit under one head.

FLOOR AREA — The sum of the gross horizontal areas of the several floors of the building measured from exterior faces of walls, including enclosed porches.

FLOOR AREA RATIO (FAR) — The fixed relation between the lot area and the floor area of all multiple-family residential buildings, excluding the floor area of garages, carports, breezeways, stairways, hallways and balconies and excluding the area of any floor more than four feet below average grade where no part of such basement is used for sleeping rooms or other living quarters, and expressed as a fraction of floor area/lot area. [Added June 1976 STM by Art. 25, approved 10-18-1976]

FRONTAGE — The lot line separating a lot from a street layout line providing vehicular access and egress between the lot and the street. [Added May 1985 ATM by Art. 44, approved 7-25-1985]

FRONTAGE WIDTH — The horizontal distance parallel to the front lot line or, in the case of a curved or irregular lot line, a line parallel to a straight line drawn between the front lot

corners, measured between the side lot lines starting at the front lot line and extending to the minimum lot width at the building line. [Added May 1997 ATM by Art. 42, approved 8-11-1997]

FUNERAL HOME — A place of business duly licensed by law for preparing the dead for burial and/or conducting funerals.

GARAGE, PRIVATE or CARPORT — A building or part thereof, accessory to a principal building, providing storage for automobiles and in which no business or occupation for profit is carried on.

GARAGE, PUBLIC PARKING — A building, other than a private garage, available to the public and operated for gain and which is used for the storage of motor vehicles. [Added May 1989 ATM by Art. 47, approved 7-28-1989¹]

GARAGE, REPAIR — A building, other than a private garage, available to the public and operated for gain and which is used for the repair, rental, lubrication, washing, servicing, adjusting or equipping of motor vehicles. [Added May 1989 ATM by Art. 47, approved 7-28-1989]

GRADE — With reference to a building or structure, the average elevation of the ground adjoining the building or structure on all sides.

GRAVEL PIT — A lot or parcel of land or portion thereof which is used for the primary or principal purpose of extracting stone, sand, gravel or other earth materials.

GROSS FLOOR AREA — The total area of all floors of a building, including the basement and mezzanines, measured to the exterior walls thereof, and including partitions, stair halls, corridors and covered porches.

HALF STORY — Any story which is under a pitched roof, where the point of intersection of the rafters and the face of the wall is less than three feet above the floor level.

HAZARDOUS MATERIAL — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Weymouth. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalies; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under MGL c. 21C and c. 21E and 310 CMR 30.00. [Added 2-2-2004 by Ord. No. 04-041]

HAZARDOUS WASTE FACILITY — Any facility as defined in Chapter 21D of the General Laws of the Commonwealth of Massachusetts. [Added 2-2-2004 by Ord. No. 04-041]

HEIGHT OF BUILDING — The vertical distance of the highest point of the roof above the mean finished grade of the ground adjoining the building, excluding penthouses, bulkheads and other permitted superstructures above the roof.

1. Editor's Note: This article also repealed the definition of "garage, public."

HOSPITAL — A duly licensed institution established or maintained for the purpose of caring for persons admitted thereto for diagnosis, medical, surgical or restorative treatment. [Added May 1990 STM by Art. 3, approved 8-29-1990]

HOTEL — A building used for the more or less temporary occupancy of individuals who are lodged with or without meals, having 10 or more guest rooms, in which no provision is made for cooking in any individual room or suite.

IMPERVIOUS SURFACE — Material or a structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil. [Added 2-2-2004 by Ord. No. 04-041]

JUNK — Articles such as old iron (including old abandoned cars or parts), brass, copper, tin, lead or other base metals, cordage, old bags, rags, wastepaper, paper clippings, scraps, slips, rubber, glass, empty bottles, empty cans and all other articles discarded and no longer used as a manufactured article, composed of any one or more of the materials mentioned, but which may be converted into another product by means of a manufacturing process of any kind.

KENNEL — One pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sales, 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.

LANDSCAPING — An area designed and developed, using a combination of trees, shrubs, ground covers, grass and other elements, such as natural features of the lot, walks and terraces, for the purpose of enhancing the natural, scenic and aesthetic qualities of the lot. [Added May 1992 ATM by Art. 35, approved 10-1-1992]

LODGING HOUSE — A house where lodgings are let to four or more persons not within the second degree of kindred of the person conducting it, but not including dormitories of charitable, educational or philanthropic institutions. [Added October 1982 STM by Art. 3, approved 1-11-1983]

LOT — A parcel of land in single, joint or multiple ownership, whether or not plotted, and not divided by a public street.

LOT AREA — The horizontal area of the lot exclusive of any area in a public or private way open to public use and exclusive of any freshwater area more than 10 feet from the shoreline and exclusive of any saltwater area below the mean high-tide line.

LOT COVERAGE — The fixed relation between the lot area and the area of ground coverage of all buildings, including accessory buildings, and expressed as a percentage. [Added May 1989 ATM by Art. 53, approved 7-28-1989]

LOT LINE — The division line between adjoining properties or a division line between lots established by a plan filed in the Registry of Deeds or Land Court.

LOT LINE, FRONT — All lines separating any lot from the street layout lines. [Amended May 1989 ATM by Art. 53, approved 7-28-1989]

LOT LINE, REAR — A lot line which is opposite and most distant from the front lot line; in the case of a triangular or irregular lot, a line 10 feet long within the lot, parallel to and farthest from the front lot line. In the case of a corner lot, the rear lot line shall be the line opposite the street line of the street on which the principal building faces.

LOT LINE, SIDE — Any lot line not a front or rear lot line.²

LOT WIDTH — The horizontal distance parallel to the front lot line or, in the case of a curved or irregular lot line, a line parallel to a straight line drawn between the front lot corners, measured between the side lot lines at the building line. [Amended May 1989 ATM by Art. 53, approved 7-28-1989]

MARINA — A dock or basin providing secure moorings for boats and yachts.

MEDICAL LABORATORY — A facility performing tests, analysis or procedures of a diagnostic, medical, surgical or restorative health related nature. [Added May 1990 STM by Art. 3, approved 8-29-1990]

MEDICAL OFFICE — The offices of one or more medical or dental professionals providing medical or allied care on an ambulatory basis. [Added May 1990 STM by Art. 3, approved 8-29-1990]

MOTEL — A hotel primarily for transients traveling by automobile, with a parking space on the lot for each lodging and with separate access to each lodging directly from the outside or from a central corridor.

NONCONFORMING USE — A use of a building, structure or lot lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which does not conform to one or more provisions of the bylaw. [Amended June 1978 STM by Art. 3, approved 11-2-1978]

NONSANITARY WASTEWATER — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewerage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6). [Added 2-2-2004 by Ord. No. 04-041]

OCCUPANCY — Use or occupancy, character of use or designed purpose of a building, structure or land.

OFF-STREET LOADING — Accommodations off the street for loading and unloading of trucks, in the form of one or more truck berths located within a building or in an open space on the same lot.

OFF-STREET PARKING — Accommodations for the parking of motor vehicles off the street.

2. Editor's Note: The definition of "lot line, side street," which immediately followed this definition, was repealed May 1989 ATM by Art. 53, approved 7-28-1989.

OUTPATIENT CLINIC — Any ambulatory medical, surgical, dental, physical rehabilitation or mental health facility. [Added May 1990 STM by Art. 3, approved 8-29-1990]

PARKING SPACE — An area within a structure or in the open on a lot to be used exclusively as a temporary storage space for one motor vehicle.

PLANNED UNIT DEVELOPMENT — A form of development which is usually characterized by a unified site design for a number of housing units, clustering of buildings, providing for common open space and a mix of building types and land uses. [Added June 1978 STM by Art. 2, approved 11-2-1978]

PRINCIPAL BUILDING — The main or most important building on a lot. Attached structures such as garages, greenhouses and similar units shall be considered as an integral part of the principal building.

PROFESSIONAL ENGINEER — A person employed in the practice of engineering as defined in MGL c. 112, § 81D, and amendments thereto.

PROFESSIONAL HOME OFFICE — An office or studio located within the principal building of the premises of a resident, architect, artist, author, attorney, clergyman, dentist, engineer, physician or other member of a recognized profession.

RECREATIONAL EQUIPMENT, MAJOR — Boats and boat trailers, travel trailers, pickup campers or coaches, motorized dwellings, tent trailers and similar devices.

REGISTERED MARIJUANA DISPENSARY (RMD) — A building or structure used for a medical marijuana treatment center approved and licensed by the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and the local Board of Licensing Commissioners that acquires, cultivates, possesses, processes (including development of related products such as marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, "RMD" refers to the site(s) of dispensing, cultivation, and preparation of marijuana. [Added 7-14-2014 by Ord. No. 14-078]

SANITORIUM or SANITARIUM — An establishment for the recuperation or treatment of invalid or convalescent persons.

SELF-SERVICE GAS STATION — That type of gas station wherein the licensed motor vehicle operator dispenses his own motor fuel. [Added January 1977 STM by Art. 1, approved 4-26-1977]

SERVICE ENTERPRISE — Any enterprise conducted for profit which deals directly with and is accessible to the ultimate customer or patron and which has for its principal purpose the performance of any act for the convenience, service or benefit of such customer or patron.

SERVICE STATION — A building, other than a private garage, available to the public and operated for gain, which supplies fuel, oil and automobile accessories to motor vehicles and which may include grease racks or elevators and which may provide minor automobile repair services, excluding body work and painting.

SETBACK — The minimum required distance between the street line on which the principal building faces and the parts of said building nearest to such street line, such distance extending the entire width or distance across the lot.

SIGN — Includes a structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation used as, or which is in the nature of, an advertisement, announcement or direction.

SIGN AREA —

- A. For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- B. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, accompanying designs or symbols, together with any background of a different color than the natural color of the building.

STABLES, LIVERY — A building in which any hooved animals are kept for private use, hire, remuneration or sale.

STABLES, PRIVATE — An accessory building where not more than two hooved animals are kept for private use and not for hire, remuneration or sale.

STORY — That part of a building between any floor and the floor or roof next above, except that a space used exclusively for the housing or mechanical services of the building shall not be considered to be a "story" if access to such space may be had only for maintenance of such services.

STORY, FIRST — The lowest story of which 65% or more of the height is above the mean grade from which the height of the building is measured.

STREET — A way, whether public or private, used or dedicated for use for all purposes of passage, and including streets, avenues, boulevards, parkways, roads, alleys, lanes and viaducts; provided, however, that the way is either in actual use or is shown on a plan endorsed under the Subdivision Control Law. See MGL c. 41, § 81K et seq. **[Amended June 1978 STM by Art. 2, approved 11-2-1978; 6-20-2016 by Ord. No. 16-095]**

STREET LINE — The line separating the street layout line from a lot.

STRUCTURE — A combination of materials assembled at a fixed location that is safe and stable to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, swimming pool, platform, bin, fence, sign, flagpole or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof."

SWIMMING POOL — Any constructed pool which is used, is designed for use as or is intended to be used as a swimming pool, so-called, and which has a minimum capacity of 5,000 gallons and a minimum depth of 36 inches.

TRAILER — An automobile trailer, mobile home, trailer coach and any portable structure or vehicle so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes, to include any of the above units with a foundation thereunder.

TRAILER CAMP — A parking space for two or more trailers used as dwellings and licensed by the Board of Health under the General Laws.

TREATMENT WORKS — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal. **[Added 2-2-2004 by Ord. No. 04-041]**

UPLAND — Land not considered a wetland as defined in MGL c. 131, § 40, the Wetlands Protection Act, including but not limited to oceans, ponds, streams, bogs, wet meadows and swamps. **[Added May 1998 ATM by Art. 43, approved 10-23-1998]**

USE — As a verb, shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented or leased to be used."

WIRELESS COMMUNICATION, ACCESSORY EQUIPMENT — Wireless communication equipment, including but not necessarily limited to any equipment, antenna, satellite dishes over three feet in diameter, panel, fixtures and protective covering located on the same lot with and customary and incidental to a permitted as of right, by special permit, by variance or as a preexisting nonconforming use. **[Added November 1997 STM by Art. 36, approved 2-26-1998]**

WIRELESS COMMUNICATION, BUILDING-MOUNTED EQUIPMENT — Wireless communication equipment mounted on a building, including but not necessarily limited to any equipment, antenna, satellite dishes over three feet in diameter, panel, fixtures and protective covering mounted on, erected or supported in whole or in part by an existing building or structure, including but not necessarily limited to buildings, smokestacks and the like, occupied and/or used primarily for any other purpose, excluding water towers. **[Added November 1997 STM by Art. 36, approved 2-26-1998]**

WIRELESS COMMUNICATION, FREESTANDING STRUCTURE — Wireless communication structures including satellite dishes over three feet in diameter, monopoles, lattice towers or any other similar freestanding structure. **[Added November 1997 STM by Art. 36, approved 2-26-1998]**

WIRELESS COMMUNICATION, INDOOR EQUIPMENT — Indoor wireless communication equipment, including but not necessarily limited to any equipment, antenna, panel, fixtures and protective covering mounted inside or supported within an existing building or structure, including but not necessarily limited to buildings, cupolas, church spires, inactive smokestacks and the like, occupied and/or used primarily for any other purpose. **[Added November 1997 STM by Art. 36, approved 2-26-1998]**

YARD, FRONT — An open space extending across the full width of the lot and lying between the front lot line and the nearest point of the building.

YARD, REAR — An open space extending across the full width of the lot and lying between the rear lot line and the parts of the principal building nearest such rear lot line.

YARD, SIDE — An open space within the lot, between the side lot line and the parts of the principal building nearest such side lot line, and extending from the front yard line to the rear yard line. In the case of a corner lot, the side yard facing a street or way shall be the space required for the front yard.

ARTICLE III Establishment of Zoning Districts

§ 120-7. Types of districts. [Amended May 1980 ATM by Art. 51, approved 8-27-1980]

For the purpose of this bylaw, the Town of Weymouth is hereby divided into zoning districts as follows:

- A. Watershed Protection District WPD. [Added May 1985 ATM by Art. 46, approved 7-25-1985]

Groundwater Protection District [Added May 1995 ATM by Art. 58, approved 7-31-1995]

- B. Residential districts.

R-1 Low Density (single-family)

R-2 Low Density (mixed low-density residential and office) [Added May 1990 STM by Art. 1, approved 8-29-1990]

R-3 High Density A (garden-type multiple)

R-4 High Density B (multiple)

- C. Neighborhood Center District NCD. [Added May 1983 ATM by Art. 48, approved 8-26-1983]

- D. Business districts.

B-1 Limited Business

B-2 General Business

HT Highway Transition [Added May 1990 STM by Art. 2, approved 8-29-1990]

MS Medical Service [Added May 1990 STM by Art. 3, approved 8-29-1990]

- E. Industrial districts.

I-1 Industrial Park

I-2 General Industrial

PIP Planned Industrial Park

POP Planned Office Park [Added October 1985 STM by Art. 23, approved 1-27-1986]

F. Public Facilities and Open Space POS.

G. Floodplain district.

Floodplain Overlay

§ 120-8. District boundaries; Zoning Map. [Amended June 1978 STM by Art. 3, approved 11-2-1978; May 1980 ATM by Art. 51, approved 8-27-1980; January 1990 STM by Art. 15, approved 3-26-1990; May 1990 ATM by Art. 47, approved 9-13-1990; 6-18-2012 by Ord. No. 12-091]

The boundaries of all the zoning districts are hereby established as shown on a map entitled the "Zoning Map of the Town of Weymouth," dated January 1, 1969, and thereafter amended from time to time, and on file in the office of the Town Clerk, which map, together with all amendments and with all explanatory matters thereon, shall be deemed to be and is hereby made a part of this bylaw. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas within the Town of Weymouth designated as Zone A, AE, AO, or VE on the Norfolk 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 Norfolk County FIRM that are wholly or partially within the Town of Weymouth are panel numbers 25021C0089E, 25021C0093E, 25021C0226E, 25021C0227E, 25021C0228E, 25021C0229E, 25021C10231E, 25021C0233E, 25021C0236E, 25021C0237E, 25021C0238E, 25021C0239E, 25021C0241E, and 25021C0243E, dated July 17, 2012. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

§ 120-9. Lots in two districts. [Amended May 1990 ATM by Art. 48, approved 9-13-1990]

- A. Where a district boundary line divides a lot existing at the time such line is adopted, the regulations of the more restrictive zoning district may extend not more than 30 feet into the less restrictive district.
- B. Where a district boundary line divides a lot existing at the time such line is adopted, active uses of the land in conjunction with permitted uses in the less restrictive zone, such as parking, drainage detention or retention structures, retaining walls, access drives, buildings, structures or the like, are prohibited in the more restrictive zone.

§ 120-10. Determination of boundary lines.

Where a district boundary is indicated as approximately following or parallel to the center line of a street line or a street, highway, railroad right-of-way or watercourse, such district boundary shall be construed as following, or as being parallel to, such center line. Where a district boundary is indicated as approximately following a lot line, such line shall be construed to be said boundary. Whenever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Inspector of Buildings by the use of the scale shown on said Zoning Map.

ARTICLE IIIA
Watershed Protection District

[Added May 1985 ATM by Art. 46, approved 7-25-1985; amended May 1989 ATM by Art. 49, approved 7-28-1989; May 1990 STM by Arts. 1 and 2, approved 8-29-1990; May 1990 ATM by Art. 49, approved 9-13-1990; May 1993 ATM by Art. 55, approved 7-9-1993; 2-2-2004 by Ord. No. 04-041]

§ 120-10.1. Intent.

The Watershed Protection District is established for the following purposes:

- A. To preserve and protect the lakes, ponds, streams, brooks, marshes, swamps, bogs and other water bodies and watercourses in the Town.
- B. To protect, preserve and maintain the water table and water recharge areas within the Town, so as to preserve present and potential sources of water supply for the public health and safety.
- C. To protect the community from detrimental use and development of land and waters within the Watershed Protection District.
- D. To conserve the watershed areas of the Town of Weymouth for the health, safety, welfare and enjoyment of its people.

§ 120-10.2. Establishment; determination of boundaries.

- A. Watershed Protection District.
 - (1) The Watershed Protection District includes those areas that fall within the catchment or drainage areas of the Town's public water supply. The district includes all areas delineated on the Zoning Map.
 - (2) The Inspector of Buildings shall use the procedure outlined in § 120-10 to determine boundary lines; however, where accurate topographical data exists, the Watershed Protection District line shall be the drainage area of the watershed as delineated by such topography.
- B. Where interpretation is needed as to the exact location of the boundaries of the district, the Building Inspector shall make the necessary interpretation.

- C. The Watershed Protection District is an overlay district and shall be superimposed on the other districts established by this bylaw. No use not permitted in the portions of the districts so overlaid shall be permitted within the district.

§ 120-10.3. Permitted uses.

The overlay district shall impose the following criteria and/or requirements for each underlying zoning district:

- A. Residential District R-1. No additional criteria or requirements. [Amended 4-2-2018 by Ord. No. 17-127]
- B. Residential R-2 and Highway Transition HT Districts. For permitted residential uses over two dwelling units and all nonresidential uses, a site plan review in accordance with Article XXVA is required.
- C. Highway Transition HT Districts. For permitted residential uses over two dwelling units and all nonresidential uses, a site plan review in accordance with Article XXVA is required.
- D. Business Districts B-1 and B-2. For all permitted uses, a site plan review in accordance with Article XXVA is required.
- E. Industrial District I-1, PIP and POP. For all permitted uses, a site plan review in accordance with Article XXVA is required.

§ 120-10.4. Prohibited uses.

The following are prohibited in the Watershed Protection District. Further definitions, in addition to those supplied herewithin, describing the areas listed below shall be found in the appropriate Massachusetts General Laws and/or Massachusetts Department of Environmental Protection regulations.

- A. Solid waste disposal landfills or open dumps, as defined in 310 CMR 19.006.
- B. Surface waste impoundments designed to leach their wastes to the ground.
- C. Open road salt storage and dumping of salt-contaminated snow.
- D. Discharge to the ground or surface water of sanitary and/or nonsanitary wastewater, provided that municipal sewage connections are available.
- E. Construction within 25 feet (horizontal) of the high water line of all surface water bodies.
- F. Storage of liquid petroleum products, liquid propane, and liquid hazardous materials defined in MGL c. 21E, with the following exceptions:
 - (1) Materials stored above ground on an impervious surface in an area that provides 110% capacity of materials stored;
 - (2) Materials incidental to normal household use;

- (3) Materials used for emergency generators;
 - (4) Materials incidental to a response action in accordance with MGL c. 21E and 310 CMR 40.000 and which are exempt from a groundwater discharge permit pursuant to 314 CMR 5.05.
- G. Facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL c. 21 and 310 CMR 30.00, except for the following:
- (1) Very small generators as defined by 310 CMR 30.00.
 - (2) Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390.
 - (3) Waste oil retention facilities required by MGL c. 21, § 52A.
 - (4) Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated surface or groundwater.
- H. Floor drains in existing or proposed facilities containing or using hazardous materials or hazardous wastes in process or storage areas that discharge to the ground or a surface water body.
- I. Storage of covered or uncovered commercial fertilizers, unless containment is provided.
- J. Storage of covered or uncovered animal manure, unless containment is provided.
- K. Structures for the stabling, boarding, hitching, standing, feeding or grazing of livestock or other domestic animals within 100 feet of a source water supply or tributary.
- L. The stockpiling and disposal of snow or ice removed from streets where sodium chloride or other chemicals used for snow and ice treatment have been applied.

§ 120-10.4.1. Land use requirements.

- A. Hazardous materials and liquid petroleum products shall be stored in either:
 - (1) A freestanding container within a building.
 - (2) A freestanding covered container above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity plus 10%.
- B. Uses that create impervious surfaces shall be designed so that all runoff is recharged back into the groundwater supply. All artificial recharging shall be done in a way that will not result in the degradation of the groundwater quality.
- C. The removal of soil, loam, sand, gravel or any other mineral substances shall not be within four feet of the historical high groundwater elevation (as determined from test pits or borings certified by a registered engineer, monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey) unless the substances removed are redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark, and except for

excavations for the construction of building foundations or the installation of utility works.

§ 120-10.4.2. Site plan review.

The following uses shall require a site plan review process subject to Article XXVA:

- A. Any use that will render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater. A design for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. Any and all recharge areas shall be permanently maintained in full working order by the owner.

§ 120-10.4.3. Special permit uses.

The following uses shall require a special use permit and are subject to the conditions and requirements of Article XXV of this ordinance:

- A. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, as permitted in the underlying zoning (except as prohibited in § 120-10.4). Such activities shall require a special permit to prevent contamination of the environment.
- B. The construction or expansion of cemeteries and mausoleums.

ARTICLE IIIB

Groundwater Protection District

[Added May 1995 ATM by Art. 58, approved 7-31-1995; amended 2-2-2004 by Ord. No. 04-041]

§ 120-10.5. Intent.

The Groundwater Protection District is established for the following purposes:

- A. To preserve, protect and maintain areas within the Town which supply groundwater recharge to the municipal drinking water wells.
- B. To protect the community from detrimental use and development of land and waters within the Groundwater Protection District.
- C. To protect the public health and preserve the future use of groundwater supplies for the health, safety, welfare and enjoyment of the people of the Town of Weymouth.

§ 120-10.6. Establishment; determination of boundaries.

- A. The Groundwater Protection District includes those areas that fall within the Hydrogeologic Zone II as approved by the Massachusetts Department of Environmental Protection (DEP) under 310 CMR 22.00, plus those areas of Zone III from which groundwater drains into Zone II. The district includes all areas delineated on the Zoning Map.
- B. Where interpretation is needed as to the exact location of the boundaries of the district, the Inspector of Buildings, with the assistance and guidance of the Engineering Division of the Department of Public Works, shall make the necessary interpretation.
- C. The Groundwater Protection District is an overlay district and shall be superimposed on the other districts established by this bylaw. No use not permitted in the portions of the districts so overlaid shall be permitted within the district.

§ 120-10.7. Prohibited uses.

The following are prohibited in the Groundwater Protection Overlay District. Further definitions, in addition to those supplied herewithin, describing the areas listed below shall be found in the appropriate Massachusetts General Laws and/or Massachusetts Department of Environmental Protection regulations.

- A. All uses prohibited in the Watershed Protection District. (See § 120-10.4.)
- B. Storage of sludge and septage as defined in 310 CMR 32.05, unless storage is in compliance with 310 CMR 32.30, 310 CMR 32.31, and 310 CMR 22.00.
- C. Treatment or disposal works for nonsanitary wastewaters, except those treatment works approved by the DEP.

§ 120-10.8. Site plan review.

The following uses shall require a site plan review process subject to Article XXVA:

- A. Any use that will render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater. A design for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. Any and all recharge areas shall be permanently maintained in full working order by the owner.

§ 120-10.9. Special permit uses.

The following uses shall require a special use permit and are subject to the conditions and requirements of Article XXV of this ordinance:

- A. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, as permitted in the underlying zoning (except as prohibited in § 120-10.7). Such activities shall require a special permit to prevent contamination of the environment.
- B. The construction or expansion of cemeteries and mausoleums.

**ARTICLE IV
Resident District R-1**

§ 120-11. Permitted uses. [Amended May 1989 ATM by Art. 52, approved 7-28-1989]

In a Resident District R-1, no building or premises shall be erected, altered or used for any purpose except:

- A. Detached one-family dwellings.
- B. Municipal use.

§ 120-12. Accessory uses.

Uses on the same lot with and customarily incident to any of the above permitted uses and not detrimental to a residential neighborhood. The term "accessory" in this section shall be limited to the following uses:

- A. Garage space for storage of not more than three automobiles. Maximum height shall be determined as below: **[Amended 4-2-2018 by Ord. No. 17-127; 8-10-2020 by Order No. 20-089]**
 - (1) On any lot containing 25,000 square feet or more, a garage may be built to the height of the primary structure provided that is constructed on a permanent foundation, is of wood construction, and meets all other dimensional requirements of this bylaw.
 - (2) On any lot less than 25,000 square feet, the maximum height of a detached garage shall be 1 1/2 stories and a maximum of 21 feet at the highest point provided that is constructed on a permanent foundation, is of wood construction and meets all other dimensional requirements of this bylaw.
- B. Parking or storage of one commercial motor vehicle, provided that the permitted commercial motor vehicle is limited to two-axle vehicles, and has a rated capacity which does not exceed one ton; except on a farm, where vehicles used in the operation of the same may be stored. **[Added May 1999 ATM by Art. 8, approved 8-11-1999]**
- C. The sale of produce or plants, provided that the major portion thereof is raised on the premises.

- D. Major recreational equipment.
- E. A customary home occupation carried on for gain in the residence of the occupant, provided that there is no display of goods visible from the street, that no nonresident help is employed and that such occupation shall not occupy more than 1/3 of the gross floor area, excluding attic, of the residence or apartment, and provided further that such occupation shall not be carried on in an accessory building. [Added May 1989 ATM by Art. 52, approved 7-28-1989; amended May 1999 ATM by Art. 19, approved 8-19-1999]
- F. A professional home office, provided that no more than one nonresident office or laboratory assistant shall be allowed. [Added May 1989 ATM by Art. 52, approved 7-28-1989]
- G. An accessory home office, carried on for gain in the residence of the occupant, provided that customers, clients or delivery persons coming to the premises are limited to one individual or group of individuals per day, that no nonresident help is employed and that such office shall not occupy more than 1/3 of the gross floor area, excluding attic, of the residence or apartment, and provided further that the office shall not be located in an accessory building. [Added May 1999 ATM by Art. 19, approved 8-19-1999]

§ 120-12.1. Special permit uses by Planning Board. [Added May 1998 ATM by Art. 40, approved 10-23-1998]

The following uses, or uses customarily accessory thereto, may be granted as a special permit by the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Planned unit development, as defined in § 120-6 of this bylaw, and subject to the district regulations in § 120-63 of this bylaw.

§ 120-13. Special permit uses by Board of Zoning Appeals. [Amended June 1978 STM by Art. 2, approved 11-2-1978; October 1982 STM by Art. 3, approved 1-11-1983; May 1990 STM by Art. 3, approved 8-29-1990; 1-17-2017 by Ord. No. 16-150]

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. (Reserved)³
- B. Garages. [Amended 8-10-2020 by Order No. 20-089]
 - (1) Garage space for storage of more than three automobiles;
 - (2) Garage structure that does not comply with dimensional requirements of § 120-12;
 - (3) Garage structure made of prefabricated metal; or

3. Editor's Note: Former Subsection A, Funeral home, was repealed 12-20-2021 by Order No. 21-116.

- (4) Any combination of these circumstances.
- C. Noncommercial greenhouse.
- D. The renting of rooms and/or furnishing of meals, limited to three persons not members of the family of the occupant and who are not casual or transient guests.

ARTICLE IVA

Resident District R-2

[Added May 1990 STM by Art. 1, approved 8-29-1990]

§ 120-13.1. Purpose.

The purpose of the R-2 District, mixed residential, is to:

- A. Provide for a transitional zone between single-family districts and multifamily or business districts.
- B. Recognize the changing character of major arterial roads by allowing use changes to existing single-family dwellings.
- C. Preserve the residential character of the district while allowing low-density multifamily and office uses.
- D. Limit traffic congestion by limiting the density and intensity of permitted and special permit uses in the district.

§ 120-13.2. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Any of the following uses, or uses customarily accessory thereto, are permitted:

- A. Any use permitted in Resident District R-1.
- B. Two- or three-family dwelling, new construction.
- C. Alteration, but not the expansion, of a dwelling existing at the time of adoption of this bylaw for up to four dwelling units.

§ 120-13.3. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Alteration and/or the expansion, not to exceed 10% of the existing gross floor area, of a dwelling or structure existing at the time of the adoption of this bylaw for up to 10 dwelling units.⁴

§ 120-13.4. Special permit uses by Planning Board.

Any of the following uses, or uses customarily accessory thereto, on approval of the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Alteration and/or the expansion, not to exceed 10% of the existing gross floor area, of a dwelling or structure existing at the time of the adoption of this bylaw for office space, not to exceed 2,000 square feet of gross floor area.⁵

ARTICLE V**Resident District R-3**

[Amended June 1976 STM by Art. 26, approved 10-18-1976]

§ 120-14. Intent.

The R-3 Resident District is intended to establish and preserve a multiple-family dwelling district whose density would be compatible with existing multiple-family dwelling characteristics within the Town of Weymouth and to provide varied housing opportunities. It is further intended that the R-3 District provide for low-rise structures with appropriate landscaping and site planning to allow for garden-apartment types of developments. It is further intended to exclude uses which are not compatible with residential uses but permit certain nonresidential uses which are compatible in the district and which are of particular convenience to the residents of the district.

§ 120-15. Permitted uses. [Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1987 ATM by Art. 52, approved 8-27-1987; May 1992 ATM by Art. 46, approved 10-1-1992; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Resident District R-3, no buildings or premises shall be erected, altered or used for any purpose except:

- A. Any use permitted in Resident District R-1.

4. Editor's Note: Former Subsection B, Funeral home, which immediately followed, was repealed 12-20-2021 by Order No. 21-116.

5. Editor's Note: Former Subsection B, Licensed day-care nursery center, which immediately followed this subsection, was repealed May 1992 ATM, Art. 46, approved 10-1-1992

- B. A building or group of buildings for occupancy by two or more families in separate dwelling units.
- C. Nursing home or convalescent home.

§ 120-16. Accessory uses. [Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1992 ATM by Art. 46, approved 10-1-1992; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Uses on the same lot with and customarily incident to any of the above permitted uses, as follows:

- A. Accessory uses under § 120-12 of this bylaw for single-family dwellings.
- B. Accessory uses and structures customarily associated with apartment developments, including swimming pools, recreation facilities, garages and the like, and also including convenience grocery stores, newsstands, barbers, hairdressers, drugstores and like facilities primarily for the use of on-site residents. Home occupations are prohibited for multifamily dwellings in the R-3 District.
- C. Accessory uses and structures customarily associated with nursing homes and convalescent homes.

§ 120-17. Special permit uses by Board of Zoning Appeals. [Amended June 1978 STM by Art. 2, approved 11-2-1978]

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Any use requiring a special permit in the Resident District R-1, § 120-13.
- B. Private club or lodge operated for members only.
- C. Clinic or office of an architect, attorney, physician, dentist or other similar professional person or firm, not accessory to a main residential use.

§ 120-18. Special permit uses by Planning Board. [Amended June 1978 STM by Art. 2, approved 11-2-1978]

The following uses, or uses customarily accessory thereto, may be granted as special permit by the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Planned unit development as defined in § 120-6 of this bylaw and subject to the district regulations in § 120-63 of this bylaw.
- B. Hotel, motel or apartment hotel.
- C. A building or group of buildings for occupancy by 20 or more families in separate dwelling units. [Added May 1987 ATM by Art. 52, approved 8-27-1987]

§ 120-18.1. Special permit uses by Board of Selectmen. [Added October 1982 STM by Art. 3, approved 1-11-1983]

The following uses, or uses customarily accessory thereto, may be granted as a special permit use by the Board of Selectmen, subject to the conditions and requirements of Article XXV:

- A. Lodging house, not to exceed 10 lodgers.

**ARTICLE VI
Resident District R-4**
[Amended June 1976 STM by Art. 24, approved 10-18-1976]

§ 120-19. Intent.

The R-4 Resident District is intended to establish and preserve a multiple-family-dwelling district whose density would be compatible with existing multiple-family-dwelling characteristics within the Town of Weymouth and to provide varied housing opportunities. It is further intended that the R-4 District provide for high-rise structures with appropriate site planning.

§ 120-20. Permitted uses. [Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1987 ATM by Art. 52, approved 8-27-1987; May 1992 ATM by Art. 46, approved 10-1-1992; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Resident District R-4, no building or premises shall be erected, altered or used for any purpose except (Uses in Subsections B through H are limited in area to either lots of less than 40,000 square feet or structures with a gross floor area of less than 20,000 square feet. For uses of greater lot area or floor area, see § 120-18C.):

- A. A building or group of buildings for occupancy by two or more families in separate dwelling units.
- B. Nursing home and convalescent home.
- C. Hotel, motel or restaurant, not including drive-in restaurant.
- D. Private club or lodge, operated for members only.
- E. Clinic or office of an architect, attorney, physician, dentist or other similar professional persons or firm, real estate, insurance or other agency office, bank, office building, post office or other similar establishment.
- F. Retail business or service establishment relative to this zoning district.
- G. Marina or yacht club and sales of boats, boat parts and accessories.

§ 120-21. Accessory uses. [Amended May 1993 ATM by Art. 55, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Uses on the same lot with and customarily incident to any of the above permitted uses, including but not limited to the provisions of § 120-16 of this bylaw.

§ 120-21.1. Special permit uses by Planning Board. [Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1987 ATM by Art. 52, approved 8-27-1987; May 1989 ATM by Art. 49, approved 7-28-1989]

The following uses, or uses customarily accessory thereto, may be granted as special permit uses by the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Special permit uses as provided in § 120-18.
- B. Any permitted use or group of permitted uses in § 120-20B through G, which have either a lot area of 40,000 square feet or more or a structure with a gross floor area of 20,000 square feet or more.

§ 120-22. Special permit uses by Board of Selectmen. [Added May 1989 ATM by Art. 49, approved 7-28-1989]

Special permit uses as provided in § 120-18.1.

**ARTICLE VIA
Neighborhood Center District NCD
[Added May 1983 ATM by Art. 48, approved 8-26-1983]**

§ 120-22.1. Purpose.

The purpose of the Neighborhood Center District is to outline and preserve the neighborhood core which has historically developed into a composite of residential, commercial, governmental and religious uses primarily designed to serve the surrounding neighborhood. It is intended to allow uses of a small scale and of a convenience nature. It is further intended to provide for special regulations relative to density, dimensional requirements, signage and parking to maintain the neighborhood scale and to ensure compatibility between uses within the districts as well as abutting residential districts.

§ 120-22.2. Permitted uses. [Amended May 1992 ATM, Art. 46, approved 10-1-1992; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Neighborhood Center District NCD, any of the following uses or uses customarily accessory thereto are permitted, provided that all permitted uses, except residential uses, shall be limited to a maximum of 5,000 gross square feet of floor area for each business and/or office:

- A. Detached single-family dwelling.
- B. A building for occupancy by two families in separate dwelling units.
- C. Retail sales, such as food, apparel and accessories, home products and furnishings, drugstores, specialty items other than motor vehicles and trailers, hardware, stationery, newsstand, variety store or similar sales primarily intended to serve the surrounding neighborhood, provided that sales do not involve manufacturing on the premises except of products the major portion of which are to be sold at retail by the manufacturer to the consumer and provided that no more than four operatives shall be employed in such manufacture.
- D. Retail services such as barbershop, beauty shop, laundry, dry cleaning, tailoring, shoe repair, caterer, print shop, photography or similar service primarily intended to serve the surrounding neighborhood, excluding motor vehicles and trailer-oriented services.
- E. Clinic or office of business, professional or financial organizations.
- F. Funeral home.
- G. Trade, professional or other school conducted as a gainful business.

- H. Place of amusement or assembly, provided that the structure is sufficiently sound-insulated to confine noise to the premises.
- I. Lunchroom, restaurant or cafeteria, excluding drive-in restaurant and/or drive-through window service.

§ 120-22.3. Special permit uses by Board of Zoning Appeals. [Amended May 1993 ATM by Arts. 56 and 57, approved 7-9-1993]

In a Neighborhood Center District, any of the following uses or uses customarily accessory thereto are permitted on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Private club or lodge operated for members only.
- B. A building for occupancy by three or more families in separate dwelling units, provided that the building area does not exceed a floor area ratio (FAR), as defined in § 120-6, of 0.25.
- C. (Reserved)
- D. Any permitted use in § 120-22.2A through H having drive-through service or windows.

§ 120-22.4. Special permit uses by Board of Selectmen.

In a Neighborhood Center District, any of the following uses or uses customarily accessory thereto are permitted on approval of the Board of Selectmen, subject to the conditions and requirements of Article XXV:

- A. Licensed lodging house up to a maximum of 10 lodgers.

**ARTICLE VIB
Highway Transition District HT
[Added May 1990 STM by Art. 2, approved 8-29-1990]**

§ 120-22.5. Purpose.

The purpose of the Highway Transition District is to:

- A. Provide for a mixed residential, business and commercial development along major arterials in the Town.
- B. Allow for redevelopment of former residential areas to limited business and commercial uses.
- C. Control off-site impacts of new development or redevelopment through the site plan review and special permit process.
- D. Preserve the scale and character of the existing streetscape by encouraging the reuse of existing residential structures and appropriate site design criteria.

§ 120-22.6. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Any of the following uses, or uses customarily accessory thereto, are permitted:

- A. Any use permitted in Resident District R-1.
- B. Two-family dwelling.
- C. Conversion of an existing residential structure for use as a clinic or office of a business, professional, medical/veterinarian or financial organization; barbershop; beauty salon; gift shop; antique shop; printer; caterer; or photography studio.
- D. Conversion of an existing residential structure for use as retail sales or services with less than 2,000 square feet of gross floor area.

§ 120-22.7. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Private club or lodge.
- B. Conversion of an existing dwelling for up to four dwelling units.

§ 120-22.8. Special permit uses by Planning Board.

Any of the following uses, or uses customarily accessory thereto, on approval of the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Retail sales or service, except auto-related sales or services that:
 - (1) Are in a new structure and contain up to a maximum of 5,000 square feet of gross floor area.
 - (2) Are in an existing converted dwelling with a gross floor area between 2,000 square feet and 5,000 square feet.
- B. Any permitted use having drive-through service or windows.
- C. New structure containing a clinic or office of business, professional, medical/veterinarian or financial organization; barbershop; beauty salon; antique or gift shop; or photography studio.
- D. Trade, professional or other for-profit school.
- E. Restaurant, except that no drive-through window is allowed unless the restaurant has less than 20 seats and the minimum lot size land area shall be 43,560 square feet. [Amended 3-2-2015 by Ord. No. 14-107]

§ 120-22.8.1. Prohibited uses. [Added 4-2-2018 by Ord. No. 17-127]

- A. Self-storage facilities.
- B. Outdoor sale of automobiles where the inventory of used cars exceeds 10% of the total inventory.

ARTICLE VIC**Medical Services District MS****[Added May 1990 STM by Art. 3, approved 8-29-1990]****§ 120-22.9. Purpose.**

The purpose of the Medical Services District is to:

- A. Provide for the health and care needs of the community within a district designed for a hospital and the customary supporting facilities and uses that develop around such a regional facility.
- B. Allow hospitals, clinics, treatment facilities, offices, laboratories, sale of materials and supplies of a medical nature and similar related uses.
- C. Maintain the neighborhood scale and ensure compatibility between uses within the Medical Services District and abutting districts through density and dimensional requirements.

§ 120-22.10. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. The following uses, or uses customarily accessory thereto, are permitted, provided that, in connection with such use, any new construction or addition to a structure lawfully existing at the time this section is adopted shall not exceed 20,000 square feet of gross floor area:

- A. Detached single-family dwelling.
- B. Hospital.
- C. Nursing home.
- D. Medical office.
- E. Outpatient clinic.
- F. Medical laboratory.

§ 120-22.11. (Reserved)^s

5. Editor's Note: Former § 120-22.11, Site plan review, was repealed May 1993 ATM by Art. 56, approved 7-9-1993.

§ 120-22.12. Special permit uses by Board of Zoning Appeals.

In a Medical Services District, any of the following uses, or uses customarily accessory thereto, are permitted on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Funeral home.
- B. Alteration of a dwelling existing at the time this bylaw is adopted for a two-family dwelling.
- C. Sale or lease of medical supplies and/or equipment.
- D. Any special permit use which, in addition, requires a variance from the Board of Zoning Appeals.
- E. Ambulance station.

§ 120-22.13. Special permit uses by Planning Board.

In a Medical Services District, any of the following uses, or uses customarily accessory thereto, are permitted on approval of the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Any uses, or uses customarily accessory thereto, permitted in § 120-22.10, where any building, group of buildings, premises or addition to a structure lawfully existing at the time this section is adopted exceeds 20,000 square feet or more of gross floor area.
- B. Parking plans that provide for required off-street parking to be located on more than one lot for any permitted or specially permitted use.

ARTICLE VII**Business District B-1**

[Amended June 1978 STM by Art. 2, approved 11-2-1978]

§ 120-23. Permitted uses. [Amended May 1987 ATM by Art. 52, approved 8-27-1987; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Business District B-1, no building or premises shall be erected, altered or used for any purposes injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause or for any purpose, and, further, no building, group of buildings or premises shall be placed on either a lot of 40,000 square feet or more or contain 20,000 square feet or more of gross floor area except:

- A. Hotel, motel or restaurant, not including a drive-in restaurant.
- B. Trade, professional or other school for ages 16 and above conducted as a gainful business.

- C. Private club or lodge operated for members only.
- D. Place of amusement or assembly, provided that the structure is sufficiently sound-insulated to confine noise to the premises.
- E. Clinic or office of an architect, attorney, physician, dentist or other similar professional persons or firm, real estate, insurance or other agency office, bank, office building, post office or similar establishment.
- F. Printing shop, photographer's studio, taxidermist or caterer.
- G. Retail business, service or public utility not involving manufacturing on the premises except of products, the major portion of which are to be sold at retail by the manufacturer to the consumer, and provided that no more than four operatives shall be employed in such manufacture.

§ 120-23.1. Prohibited uses. [Added 4-2-2018 by Ord. No. 17-127]

- A. Self-storage facilities.
- B. Outdoor sale of automobiles where the inventory of used cars exceeds 10% of the total inventory.

§ 120-24. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, unless otherwise provided, subject to the conditions and requirements of Article XXV:

- A. Service station, repair garage and car wash on approval of the Board of Selectmen, subject to the conditions and requirements of § 120-101 of this bylaw, as applicable, provided that all washing, lubricating and the making of repairs is carried on inside the building and that the structure housing major repairs, including auto body and paint shop, is sufficiently sound-insulated to confine noise to the premises and any flashing, fumes, gases, smoke and vapor is effectively confined to the premises. **[Amended May 1989 ATM by Art. 47, approved 7-28-1989]**
- B. Commercial parking lot or parking garage. **[Amended May 1989 ATM by Art. 47, approved 7-28-1989]**
- C. Detached one-family dwelling.
- D. Wholesale business, jobbing or dispatching establishment and storage in roofed structure, but not including wholesale storage of inflammable liquids, gases or explosives. **[Added May 1980 ATM by Art. 49, approved 8-27-1980]**
- E. Enclosed or open-lot storage of new building material, contractor's equipment, machinery and metals, other than scrap or junk, and similar materials, provided that any material stored in unenclosed premises to a height greater than four feet above grade level is surrounded by a substantial seven-foot-high wall, tight fence or a proper

landscape screening. [Added May 1980 ATM by Art. 49, approved 8-27-1980; amended May 1990 ATM by Art. 50, approved 9-13-1990]

- F. Lodging house, not to exceed 10 lodgers; and only in the conversion of a building, existing at the time of adoption of this amendment, containing up to three dwelling units, and further provided that the Board of Selectmen shall be the special permit granting authority, subject to the conditions and requirements of Article XXV. [Added October 1982 STM by Art. 3, approved 1-11-1983]
- G. Funeral home. [Added 12-20-2021 by Order No. 21-116]

§ 120-25. Special permit uses by Planning Board.

The following uses, or uses customarily accessory thereto, may be granted as special permit uses by the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Any permitted uses in § 120-23A through G which may be grouped together so as to form a shopping center and for which one or more of the following conditions exist or will exist as part of a proposed development and which will comprise 1.5 acres or more:
 - (1) More than one building per lot.
 - (2) More than one building in an overall development of contiguous lots even if one building will be built on one lot.
 - (3) A single building whose intended purpose is to house more than one commercial business and/or retail enterprise.
- B. Any permitted use or group of permitted uses in § 120-23A through G which have either a lot area of 40,000 square feet or more or a structure with a gross floor area of 20,000 square feet or more. [Added May 1987 ATM by Art. 52, approved 8-27-1987]
- C. Any permitted use having drive-through service or windows. [Added May 1993 ATM by Art. 57, approved 7-9-1993]

ARTICLE VIIA

Village Center Zoning Overlay District

[Added 12-6-2010 by Ord. No. 10-111]

§ 120-25.1. Purpose.

The Village Center District is an overlay zoning district. Parcels within the overlay district are first subject to the additional regulations of the overlay. In cases where there is a conflict, the regulations of the overlay zoning supersede the underlying zoning district.

Village Center zoning is the creation of a specific overlay zoning district for the unique needs of small mixed-use commercial areas; to provide goods, services and housing in a more compact environment; to encourage redevelopment; and to create a vibrant, walkable, pedestrian- and bicycle-friendly environment. A Village Center District seeks to preserve the

existing mixed uses of a village and encourage new construction to be compatible with the setbacks and scale of existing structures and is consistent with the recommendations put forth in the Weymouth Master Plan.

It is hereby declared to be the intent of the Village Center Overlay District to establish reasonable standards that permit and control mixed residential, commercial, governmental, institutional, and office uses in the Town of Weymouth. Furthermore, it is the intent of this district to:

- A. Encourage commercial, governmental, institutional, and office uses that do not attract large volumes of traffic, a diverse mix of residential, business, commercial, office, governmental, institutional and entertainment uses for workers, visitors, and residents.
- B. Limit and discourage development of highway-oriented strip commercial uses that create traffic hazards and congestion because they require numerous individual curb cuts and generally higher traffic volumes.
- C. Encourage a pedestrian- and bicycle-friendly environment so that commercial enterprises and consumer services do not rely on automobile traffic to bring consumers into the area.
- D. Permit uses that promote conversion of existing buildings in a manner that maintains the visual character and architectural scale of existing development within the district.
- E. Minimize visual and functional conflicts between residential and nonresidential uses within an abutting the district.
- F. Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl.
- G. Encourage mixed uses within the same structure.
- H. Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
- I. Encourage uses that minimize noise and congestion.
- J. Encourage artist live/work space.
- K. Encourage first-floor retail space.
- L. Allow for an appropriate density of land uses and people to support a vibrant village center and public transportation.

This article is intended to be used in conjunction with other regulations as adopted by the Town, including historic district regulations, design guidelines, site plan review, and other local ordinances designed to encourage appropriate and consistent patterns of village development.

§ 120-25.1.1. Prohibited uses. [Added 4-2-2018 by Ord. No. 17-127]

- A. Self-storage facilities.

- B. Outdoor sale of automobiles where the inventory of used cars exceeds 10% of the total inventory.

§ 120-25.2. Location.

The Village Center District shall consist of the traditional neighborhood retail cores which have historically been village centers and have developed into a composite of residential, commercial, governmental and religious uses. The district is delineated in the Town's Zoning Map.

§ 120-25.3. Permitted, site plan and special permit uses.

Any uses, or uses customarily accessory thereto, permitted within the Village Center Overlay District are noted in the Use Table for the Village Center Overlay District.

Use Table for the Village Center Overlay District

As of Right	Site Plan Review	Special Permit
Single-family detached	Three-family dwelling	Multifamily dwelling units (20 units or more)
Single-family attached	Multifamily dwelling units (4 units to 19 units) Maximum density of 1 unit per 5,000 square feet or 4 units per lot	Conversion of existing residential structure to retail or services Conversion between 2,000 square feet and 5,000 square feet of gross floor area
Two-family dwelling	Conversion of a single-family dwelling to a two-family dwelling	All nonresidential uses in a new structure or addition with a gross floor area greater than 5,000 square feet
Accessory in-law accommodation	Conversion of existing dwelling to multifamily up to 4 units	Adult day care
Home occupation	Bed-and-breakfast	Private club or lodge for members only
Artist live/work space	Conversion of existing residential structure to clinic, office, retail sales or retail services of a nature customarily found in a village center, excluding vehicular sales and service; must be less than 2,000 square feet of gross floor area	Lodging house, maximum of 10 lodgers
Retail sales and retail services of a nature customarily found in a village center, excluding vehicular sales and service	Common driveway; may not be used in conjunction with any lot used for single-family purposes	Drive-through services, excluding food sales
Mixed-use commercial with residential above	All nonresidential uses in a new structure or addition up to a maximum of 5,000 square feet	
Funeral home	Professional office for architect, attorney or similar profession	
Trade, professional or other school conducted as gainful business	Medical office/clinic or laboratory	
Place of assembly, amusement or recreation	Office building	

Use Table for the Village Center Overlay District

As of Right	Site Plan Review	Special Permit
	Restaurant	

§ 120-25.4. Site and design criteria.

The site and design criteria within this section shall be applicable to all residential greater than three units, mixed use and nonresidential property.

- A. Site access. New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided through one of the following methods: (a) through a common driveway serving adjacent lots or premises or (b) through an existing side or rear street, thus avoiding the principal thoroughfare. Garage doors or loading docks are prohibited on the front facade of any building facing the street.
 - (1) Curb cuts within 200 feet of intersections are subject to site plan review.
 - (2) Curb cuts greater than 30 feet and driveway openings greater than 20 feet are subject to a site plan review. Full-width curb cuts are prohibited.
- B. Pedestrian and bicycle circulation. Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans noted below. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with consideration of pedestrian safety, handicapped access and visual quality. Where appropriate, applicants are encouraged to provide pedestrian and/or bicycle paths connecting their site with abutting areas in order to promote pedestrian and bicycle circulation and safety in the village. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.
- C. Landscape plans shall show the type, size and location of all proposed plantings.
 - (1) Side yards shall be screened or landscaped as follows:
 - (a) Where the distance between structures on adjacent lots is 10 feet or less, the side yard shall be screened from public view by a solid fence or tight landscaping having a height of no less than five feet. A chain-link fence shall not be permitted.
 - (b) Where the distance between structures is greater than 10 feet, the space shall be appropriately landscaped.
 - (2) Large parking areas (e.g., greater than 20 parking spaces) shall be separated by landscaped islands of eight feet to 10 feet in width or in the alternative shall devote at least 5% of the interior of the parking lot to landscaping. In addition, a minimum of one shade tree shall be planted for every six parking spaces required or built, within appropriate locations on the lot(s). The plan shall show the location of plantings, including use of plantings to buffer neighboring properties, and along

the street frontage and pedestrian ways. Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet of area.

§ 120-25.5. Intensity of use.

No structure shall be erected, altered or moved, except in conformity with the following overlay district requirements:

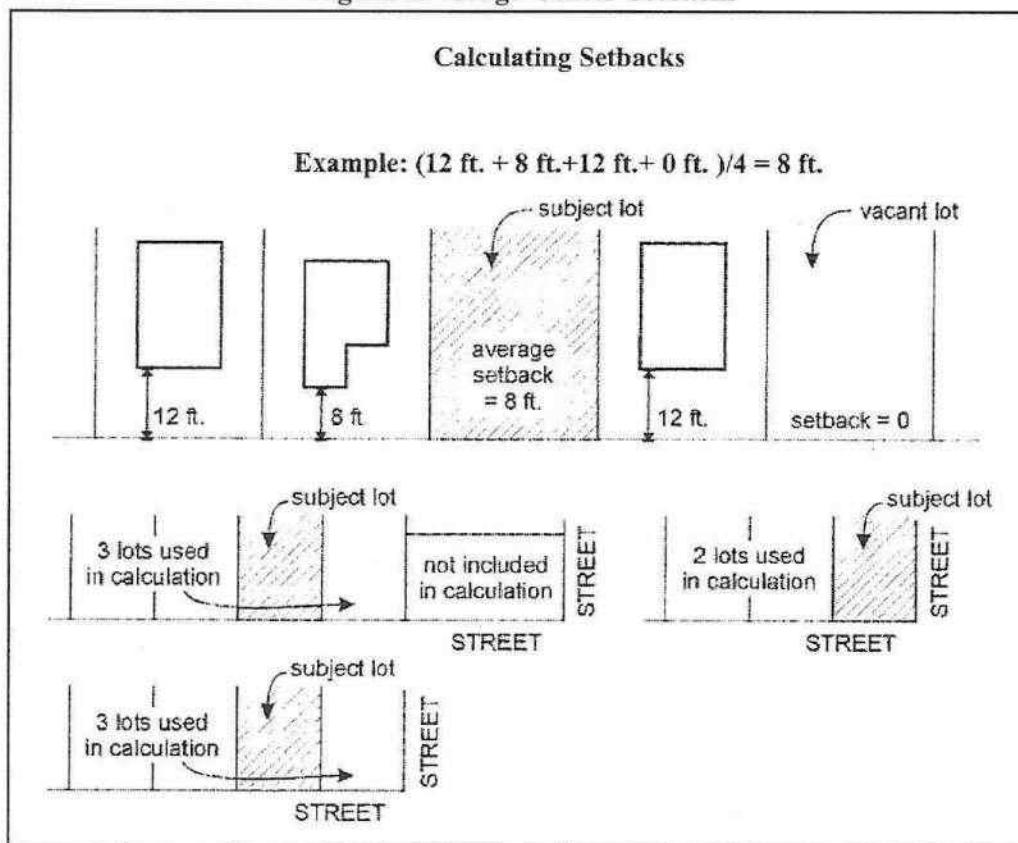
Minimum Lot Size (square feet)	Minimum Lot Width (feet)	Minimum Rear Yard Depth (feet)	Maximum Height
5,000	50	See § 120-25.5C	2 1/2 stories, not to exceed 35 feet; or 4 stories, not to exceed 50 feet by special permit
Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Lot Coverage (percent of lot area)
See § 120-25.5C	See § 120-25.5C	See § 120-25.5C	50% residential; 80% mixed-use

- A. Location and distribution of uses. The ground floor of the front facade of a commercial building or a mixed-use residential/commercial building shall be occupied by business uses only. When the rear facade faces a parking area, the ground floor shall also be occupied by business uses only.
- B. Height. To accomplish the purposes of this article, the Board of Zoning Appeals is authorized to grant a special permit to allow an increase in the height of structures either in existence, as reconstructed, or as new construction, so that the total height does not exceed four stories with a maximum height of 50 feet within this zoning district. If any construction of a structure increases the intensity of use over what was previously in existence on the lot, the Board of Zoning Appeals shall allow this increase only upon a finding that the additional height is consistent with the scale of adjacent structures and is necessary to maintain the area's character. The Board of Zoning Appeals must further find that the relaxation of height limitations will not interfere with or negatively impact abutting properties, particularly property used or zoned for single-family residential purposes.
- C. Setback. In keeping with the purpose of the Village Center District, it is recognized that the areas have developed with distinct development patterns to match the traditional needs of the small lots and buildings that have made village centers unique to their individual neighborhoods. Building setbacks within the district are given with provision to average setbacks so that redevelopment and new development will be in keeping with the established village layout. To accomplish the purposes of this section, the Inspector

of Buildings is authorized to allow a calculation of front, side and rear setback standards for new or preexisting structures, as prescribed as follows:

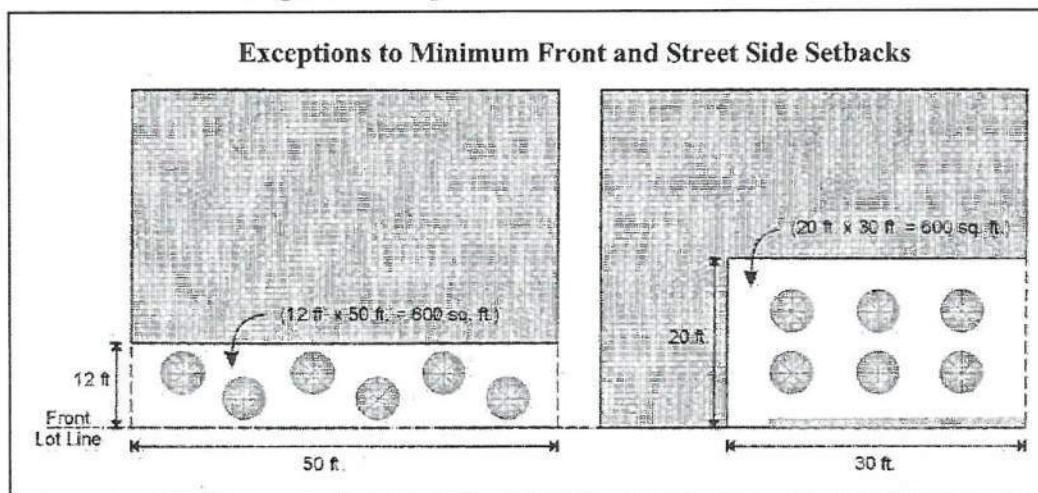
- (1) Front, side and rear building setbacks shall be calculated as follows: The maximum front and street side building setback may not exceed the average front yard depth of the nearest two lots on both sides of the subject lot or 10 feet, whichever is less.
 - (a) If one or more of the lots required to be included in the averaging calculation is vacant, such vacant lot(s) will be deemed to have a yard depth of zero feet.
 - (b) Lots fronting a street other than the subject lot or separated from the subject lot by a street or alley may not be used in the computing average.
 - (c) When the subject lot is a corner lot, the average setback will be computed on the basis of the two adjacent lots that front on the same street as the subject lot.
 - (d) When the subject lot abuts a corner lot fronting on the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two lots that front on the same street as the subject lot.

Figure 1. Village Center Setbacks



- (2) The following exceptions to the maximum front and street side building setbacks apply:
- A portion of the building may be set back from the maximum setback line in order to provide an articulated facade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.
 - A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the street wall, the building may be set back no more than 12 feet from the front or street side property line or at least 40% of the building facade must be located at the maximum setback line.

Figure 2 Exceptions to Front/Street Setback



- D. Orientation. Building shall be oriented parallel with the front setback line to establish and preserve a consistent building line, with primary entrances oriented toward the street.
- E. Articulation. Large expanses of blank walls are prohibited. A single building with a width of more than 60 feet facing a street line or a public or municipal parking area shall be divided visually into subelements which, where appropriate, express the functional diversity within the building. Major articulations shall be spaced no farther apart than 25% of the building length at street level.
- F. Transparency. The intent of these transparency standards is to maintain a sense of visual continuity and provide interest for pedestrians by ensuring that the solid-to-void ratio (the percentage of glass to solid wall surface that is used on a building face) appears similar to that seen in traditional storefronts.
- A minimum of 60% of the street-facing building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor nonresidential space or product display areas.

- (2) The bottom edge of any window or product display window used to satisfy the transparency standard of Subsection F(1) above may not be more than three feet above the adjacent sidewalk.
- (3) Product display windows used to satisfy these requirements must have a minimum height of four feet and be internally lit.

G. Doors and entrances.

- (1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.
- (2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.
- (3) The main business entrance to each ground-floor business shall be accentuated by larger doors, signs, a canopy or similar means.
- (4) Where a building has a street frontage greater than 100 feet, doors must be placed an average of one door every 50 feet of frontage.

H. Outdoor storage. Outdoor storage shall not be permitted in the Village Center District.

I. Utilities. Underground utilities for new and redeveloped buildings are required unless physically restricted or blocked by existing underground obstructions.

§ 120-25.7. Required parking spaces.

Off-street parking spaces within the Village Center Overlay District shall be provided in accordance with the following minimum and maximum requirements:

Use	Minimum Parking Spaces	Maximum Parking Spaces	Comments
Dwelling units	1.5 per unit	2 per unit	Single- and multifamily dwellings
Eating and drinking establishments	1 space for each 4 seats or 2 spaces for each 150 square feet of gross floor area, excluding basement storage area	1 space for each 2 seats or 1 space for each 50 square feet of gross floor area, excluding basement storage area	Use seats for primarily sit-down facilities, floor area for primarily take-out facilities; at discretion of the Inspector of Buildings

Use	Minimum Parking Spaces	Maximum Parking Spaces	Comments
Motels, hotels and lodging houses	0.75 space for each guest room or dwelling unit, plus 1 space for each 500 square feet of meeting, banquet or restaurant area	1 space for each guest room or dwelling unit, plus 1 space for each 400 square feet of meeting, banquet or restaurant area	
Medical, dental or professional building	1.3 spaces for each 200 square feet of gross floor area, excluding basement storage area	1.5 spaces for each 200 square feet of gross floor area, excluding basement storage area	
Offices	1 space for each 300 square feet of gross floor area, excluding basement storage area	1 space for each 200 square feet of gross floor area, excluding basement storage area	
Retail business and service establishments	1 space for each 250 square feet of gross floor area on the first floor of a building, and 1 space for each 500 square feet of gross floor area thereafter for all floors used for office, retail or service businesses, excluding basement storage area	1 space for each 200 square feet of gross floor area on the first floor of a building, and 1 space for each 400 square feet of gross floor area thereafter for all floors used for office, retail or service businesses, excluding basement storage area	
Theaters, auditoriums, assembly halls and other places of assembly	1 space for each 5 seats or for each 100 square feet of auditorium area, if there are not fixed seats	1 space for each 4 seats or for each 50 square feet of auditorium area, if there are not fixed seats	
Mixed uses in a single building	Spaces required will be the sum of the requirements of the various individual uses		

§ 120-25.8. Parking criteria.

The following criteria are included to ensure that new and renovated off-street parking areas are constructed in accordance with the village's character and the provisions of this article.

- A. Parking areas shall be located to the side and rear of the structure. Parking areas shall be designed such that parking is prohibited within the required front yard setback.
- B. Parking areas shall include provisions for the "parking" of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking. For parking areas of 10 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces or fraction thereof.

- C. Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between businesses and the parking areas.
- D. Where such parking abuts a residential district, it shall not be located within less than five feet of the lot line, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five feet shall be erected and maintained between such area and the property in the residential district.

§ 120-25.9. Shared parking.

Recognizing that parking requirements in the Village Center Overlay District of this article may hamper development of village-style land use and development, a reduction in the number of parking spaces is permissible through the criteria addressed in § 120-25.7.

- A. The applicant may reduce the number and/or the location of the required parking spaces through a site plan review or special permit. Consideration may be given to the hours of usage of the proposed use/structure, hours of usage of other uses/structures within the Village Center District, amount of shared parking with other uses, proximity to transit stations, as well as other relevant information to assist the granting authority in determining the need for additional parking for motor vehicles. Relief may be granted, provided that it is demonstrated that the additional demand for such spaces can be reasonably met without placing an undue burden on existing facilities already relying on such spaces under the following conditions:

Under site plan review:

- (1) A ten-percent reduction in the minimum parking standard for any business located within 1,000 feet of a municipal parking facility or commuter rail station.
- (2) Allow parking areas to be shared with adjoining businesses, based upon having peak user demands at different times, provided that all businesses sharing parking are located on the same lot.

Under special permit:

- (3) On-street parking spaces within a radius of 200 feet and municipal lot parking spaces may be counted as part of the required parking need.
- (4) Allow provisions for the required spaces to be on a separate lot or lots within a radius of 1,000 feet, measured from the lot line of the principal use.

- B. At the applicant's request, the Town may permit, through site plan review, shared parking, subject to the following conditions:
 - (1) A reciprocal agreement shall be executed by all parties concerned that ensures the long-term joint use of such common parking, and that a copy has been submitted, and is acceptable.
 - (2) The applicant shall provide a parking study with all information deemed necessary to render a decision. Said information shall include, but not be limited to:

- (a) The hours of operation and parking demand for each use;
 - (b) The hours of peak demand for parking;
 - (c) A description of the character of the land use and the parking patterns of adjacent uses;
 - (d) An estimate of the anticipated turnover in parking space use over a twenty-four-hour period of time; and
 - (e) A site plan showing the shared-use spaces in the lot and the walking distance to the uses sharing the lot.
- C. In rendering a decision regarding shared parking, the following criteria shall be considered:
- (1) Uses sharing the parking facility do not need to be contained within the same lot, but shall be a maximum of 600 feet from the closest parking space.
 - (2) The hours of operation and peak demand of the uses involved.
 - (3) The number of spaces required for each individual use is pursuant to § 120-25.7. of this article.
 - (4) The applicant shall demonstrate that vehicles occupying a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week.
 - (5) The degree to which the applicants are committed to implementation of transit demand management measures, such as those to promote car and van pooling, bicycling, and public transit.
- D. In the event that the conditions for shared parking change, or if the shared parking arrangement is discontinued, the applicant shall notify the Inspector of Buildings within 10 days. The Inspector of Buildings shall then require the applicant to meet the applicable parking requirements found in § 120-25.7 of this article.

§ 120-25.10. Landscaping.

Appropriate landscaping and design shall be incorporated into new and expanded development. Landscape design plans shall be prepared by a registered landscape architect, although the permit granting authority may accept a plan prepared by one other than a landscape architect if it believes the plan meets the design guidelines noted below and is in concert with the intent of this regulation. Wherever possible, naturally occurring vegetation shall be incorporated into the landscape plan.

- A. Side yard setbacks (in accordance with § 120-25.5.) shall be landscaped. This side yard shall be planted with a combination of grass, appropriate-height shrubs and shade trees. If there is not an adequate amount of side yard area to landscape, a fence may be allowed as an alternative. No parking area or driveway shall be allowed within this side yard.

- B. Exposed storage areas, machinery, garbage dumpsters, service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods compatible with the goals of this regulation. Plantings used for this section shall be a minimum of four feet in height at the time of planting.
- C. Trees are to be planted where necessary, as determined by the Inspector of Buildings. Trees shall be the equivalent of well-rooted nursery-grown stock free of injury, harmful insects, and diseases. They shall be well-branched, and the branching structure shall be sound. Trees shall only be planted after April 15 and before September 30. Any planting outside of those dates shall be approved by the Town Arborist.
- D. No more than 50% of the trees, approved to be planted, shall be of any one species, and no less than 25% of the total trees planted shall be of any one species. Trees shall be chosen from a list provided by the Town Arborist, unless an alternative is specifically approved by the Inspector of Buildings.
- E. Minimum acceptable size of tree to be planted shall be trunk caliper of 1.5 inches at four feet above the grade. Evergreen trees shall be at least eight feet to 10 feet tall at the time of planting.
- F. All required landscape areas of a property, whether permitted as of right, by site plan review or special permit, shall be maintained and properly cared for. Any plant that dies shall be replaced within one growing season. Replacement trees or shrubs shall be of similar type and a size as required. If fencing is used, the fence shall be maintained in good working order or replaced as necessary.

§ 120-25.11. Signs.

Signs in a Village Center District advertising conforming uses shall be subject to the following conditions:

- A. Each place of business shall be allowed one permanent wall sign parallel to the exterior building facade, projecting not more than 12 inches from said wall and having an aggregate area of two square feet for each horizontal foot of building frontage of said business, provided that the area of said sign shall not exceed 20 square feet.
- B. Each lot shall be allowed one freestanding sign, provided that the foremost building on the lot is set back from the front lot line a minimum of 10 feet, subject to the following criteria:
 - (1) The sign area shall not exceed 15 square feet per side, with a total surface area of all sides not exceeding 30 square feet.
 - (2) Signs within 10 feet of a street or way line shall have either the uppermost edge of the sign no more than three feet above grade or the lowermost edge of the sign no less than eight feet above grade and the uppermost edge not to exceed 20 feet above grade.

or

- C. Each lot shall be allowed one projecting sign, mounted to the front building line, provided that the foremost building on the lot is set back from the front lot no greater than 10 feet, subject to the following criteria:
- (1) The sign shall have the lowermost edge no lower than 10 feet above grade nor more than 12 feet above grade; the uppermost edge of the sign shall be no greater than 20 feet above grade or above the roofline, whichever is lower in height; the sign shall project no more than 4.5 feet from the front building line.
 - (2) The sign area shall not exceed 15 square feet per side, with a total surface area of all sides not exceeding 30 square feet.
- D. Projecting signs over public property or a right-of-way shall be subject to a site plan review, if no special permit is required, in accordance with the following conditions.
- (1) A projecting sign shall only be placed over a sidewalk or walkway, and in no case shall a projecting sign extend over any portion of a vehicular travel lane.
- E. Window signs either painted on or attached to the inside window or etched on the window, provided such signs do not cover more than 25% of the window glass.
- F. Signs shall be set back from any adjoining residential district lot line by at least the front yard distance required in the adjoining residential district.
- G. Any lights used for illumination shall be so arranged as to reflect light away from an adjoining residential district.

§ 120-25.12. Site plan review.

The Village Center Districts are recognized as a special place to be protected as a community resource because they represent an important part of the Town's heritage and because their unusual character creates an identity for Weymouth today. Compatible design helps to enhance the quality of life for all residents while strengthening the economic viability of the village centers. The site plan review program for the Village Center Districts seeks to encourage visual harmony and historic integrity and encourage creative design solutions. The village center site plan review does not dictate style, but rather suggests a variety of choices for achieving design compatibility within the Village Center Districts. The site plan review can also help to protect the property values by encouraging improvements that maintain buildings as viable assets. In Weymouth Landing, the site plan review shall incorporate the provisions of the Memorandum of Understanding regarding coordinated design/development review signed by Braintree and Weymouth Mayors on March 25, 2010.

The village center site plan review is triggered by change to the urban design features, architectural features and on- and off-site improvements. The village center site plan review is required under the following circumstances (with exceptions noted):

- A. Any new construction or exterior alteration requiring a building permit (replacement roofing excluded).
- B. New and altered signs (any signage including new, altered existing signs and awnings).

- C. Freestanding ground lighting.
- D. Fencing of any height.
- E. Interior and exterior alterations in conjunction with a change in use.
- F. Curb cuts within 200 feet of street intersections.
- G. Curb cuts greater than 30 feet in width and driveway openings greater than 20 feet in width.
- H. New paving for two or more vehicles.

§ 120-25.13. Special permit standards and criteria.

- A. In addition to the specific criteria regarding the granting of a special permit, the Board of Zoning Appeals shall issue a special permit only after consideration of all of the following:
 - (1) Impact on the neighborhood visual character, including architectural design, views and vistas;
 - (2) Degree to which the proposed use will share an access driveway and/or parking with an adjacent use and avoids new curb cuts; and
 - (3) Degree to which the proposed project complies with the goals of the Weymouth Master Plan and the provisions of this article.

ARTICLE VIIIB
Commercial Corridor Overlay District
[Added 4-2-2018 by Ord. No. 17-127]

Amendments (the "2021 CCOD Amendments") to the existing Commercial Corridor Overlay District ("CCOD") provisions, which were enacted in 2018, Article VIIIB, §§ 120-25.14 through 120-25.23 (the "2018 CCOD"), Weymouth Zoning Ordinances ("WZO") are proposed. The intent of the 2021 CCOD Amendments is not to adversely affect any development approved under the 2018 CCOD provisions. Therefore, any development that has received a special permit from the Weymouth Zoning Board of Appeals, a foundation permit, a building permit or other approval under the 2018 CCOD provisions shall be exempt from any application of the 2021 CCOD Amendments to said development and its construction. The density, dimensional, FAR, height, parking and other provisions of the 2018 CCOD shall still apply of any development permitted prior to August 18, 2021. The requirements of the 2021 amendment shall apply only to projects submitted after August 18, 2021. [Added 10-18-2021 by Order No. 21-107]

§ 120-25.14. Purpose and intent.

The Commercial Corridor Overlay District is an overlay district. Parcels within the overlay district are subject to either the additional requirements of the overlay district or the underlying district at the applicant's option. In cases where a conflict exists, the regulations of

the overlay zoning or the underlying zoning shall apply based upon the scheme the applicant intends to comply.

The overlay district applies to the underlying districts in specific areas that are zoned as Business District (B-1) and Highway Transition (HT) with the intent of creating development and redevelopment opportunities along portions of the Town's major commercial corridors in the specific locations identified on the Town of Weymouth Zoning Map.⁷ Further, this overlay district is created to permit the incorporation of a residential component as part of mixed-use developments. This is not possible within the underlying Business District (B-1) and limited within the Highway Transition District (HT).

It is hereby declared to be the intent of the Commercial Corridor Overlay District to establish reasonable standards reflective of the changing retail and office markets and additionally support within this district the Town's intent and goals to:

- A. Promote the economic development, general welfare and safety of the community through the use of basic urban design standards in special development areas.
- B. Provide the broadest range of compatible commercial and residential uses and encourage the development and redevelopment of underutilized or obsolete commercial property and ensure development and redevelopment that includes current retail and service trends and allows for a wide variety of mixed uses.
- C. Encourage reuse and redevelopment of existing buildings and building lots along portions of the gateway corridors of Route 18, Route 53, and Route 3A and Columbian Street.
- D. Encourage the consolidation of smaller lots and curb cuts.
- E. Promote urban design that is consistent with the Town of Weymouth's economic development, planning and programmatic efforts.
- F. Provide flexibility with regard to dimensional requirements in a manner that is consistent with the purposes and intent of this article.

The Town intends with the overlay district to provide additional development options for qualifying properties. The overlay district shall not take away the rights permitted by the underlying zoning district.

§ 120-25.15. Applicability. [Amended 10-18-2021 by Order No. 21-107]

A. Definitions.

The following subzones within the Commercial Corridor Overlay District are established and defined. Refer to the Town of Weymouth Zoning Map for the precise extents of the Commercial Corridor Overlay District and its subzones.

- (1) Low-Density Commercial Corridor Subzone.
- (2) Medium-Density Commercial Corridor Subzone.

7. Editor's Note: The Zoning Map is on file in the office of the Town Clerk.

B. Generally.

Application for special permit can be made to the Board of Zoning Appeals under this article provided that the lot consists of at least 30,000 square feet and any of the below is true:

- (1) The proposal consists of both a residential and nonresidential use with a minimum of 25% of the ground floor reserved for use as retail, office, or both. See § 120-25.23C. Proposals may also be comprised of more than one principal building on a lot whereas 25% of the total ground floor area (exclusive of leasing offices and amenity space) is reserved for use as retail, office, or both with no residential being permitted on the ground floor; or
- (2) The proposal is for a professional office building of between three and four stories dependent on the additional requirements in § 120-25.17A.

§ 120-25.16. Additional criteria.

In addition to the applicability requirements, an applicant must have a pre-application conference with the Director of Planning and Community Development or other appropriate staff as determined by him, to discuss additional criteria including:

- A. Adequacy of the site for the size of the proposed project and the extent that building design elements as well as setbacks, height and density (FAR) prevent large monolithic structures that overwhelm the streetscape and adjoining neighborhoods. Design elements shall be tailored to the building's specific location.
- B. Suitability of the site for the proposed use or uses ensuring that the retail use is compatible with the residential component of the proposal as well as with existing residential uses abutting the proposal. Specific consideration should be given to noise, lighting, and hours of operation.
- C. Degree to which the proposed project complies with the goals of the Town's Master Plans.
- D. Impact on traffic, pedestrian flow, safety, and access for emergency vehicles.
- E. Impact on established residential properties and areas including noise, lighting, and traffic.
- F. The extent to which the project promotes sustainable building, site design, and internal walkability.
- G. Extent to which buildings, driveways, parking areas, loading areas, outdoor activity areas, light sources, trash areas, and other potential nuisances shall be located and designed to minimize adverse impacts on abutting residential properties. To limit the adverse impact of any proposed use the special permit may require alternative site layouts, including increased setbacks from residential property lines, different locations of buildings, parking areas, and driveways, the incorporation of loading and trash collection areas as part of the principal building design, and increased screening for light sources and outdoor activity areas.

H. Driveway intersections with streets and traffic circulation patterns within lots shall be located and designed to minimize congestion and safety problems on adjacent streets and nearby intersections. The special permit may require alternative driveway locations and site design in order to alleviate potential congestion or safety problems and to maximize internal circulation.

Further, the Board of Zoning Appeals shall review all special permit requests with these criteria in mind.

§ 120-25.17. Dimensional requirements.

A. Height. [Amended 10-18-2021 by Order No. 21-107]

- (1) Proposals within the Low-Density Commercial Corridor Subzone shall not exceed three stories and 40 feet.
- (2) Proposals within the Medium-Density Commercial Corridor Subzone shall not exceed four stories and 50 feet.
- (3) The Board of Zoning Appeals shall consider the following in its review of the proposed height:
 - (a) The purpose and intent of the Commercial Corridor Overlay District. See § 120-25.14;
 - (b) Visual scale of proposal in context to the surrounding area;
 - (c) Proximity to established residential areas; and
 - (d) Extent to which a proposal utilizes topography, facade articulation, roofline variation, step-up techniques, and building materials to achieve appropriate visual scale.

B. Setbacks.

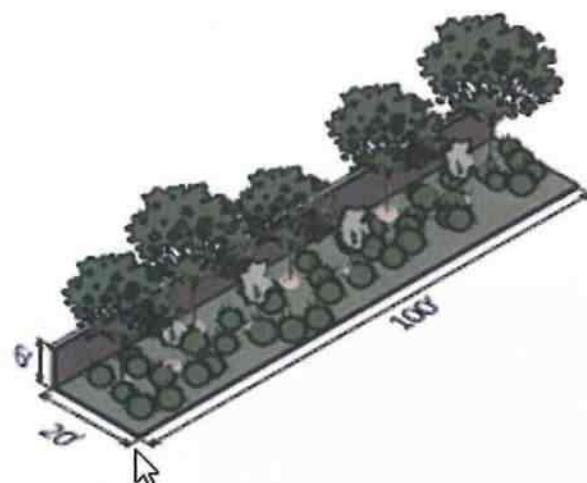
Recognizing that the primary mode of transportation along major commercial corridors will be the automobile, the goal of this article is to safely accommodate traffic while preventing these gateway corridors from being visually dominated by large expanses of paved parking areas. To the greatest extent practicable, parking for the commercial use will be provided at the front of the building with parking for the residential component concentrated behind the building. With this in mind the following setback requirements shall be, at least, as follows: [Amended 8-10-2020 by Ord. No. 20-090]

- (1) The Board of Zoning Appeals shall have the authority to approve the front setback based on the goals articulated above and subject to the review of the Weymouth Fire Department, Planning Department, and Traffic Engineer. Further, when the front setback will be used for parking, a minimum of 70 feet will be provided to allow for a minimum five-foot landscape area along the frontage, a row of parking, and a travel aisle.
- (2) The minimum front yard setback shall be 25 feet and will include a minimum five-foot landscape area along the frontage.

- (3) When a setback averaging less than 70 feet is proposed, the height of the building will be limited to two stories and 35 feet from the front of the building to the seventy-foot setback line.
 - (4) Side setbacks shall be 10 feet.
 - (5) Rear setback shall be 15 feet.
- C. Additional requirements when abutting a residential use.

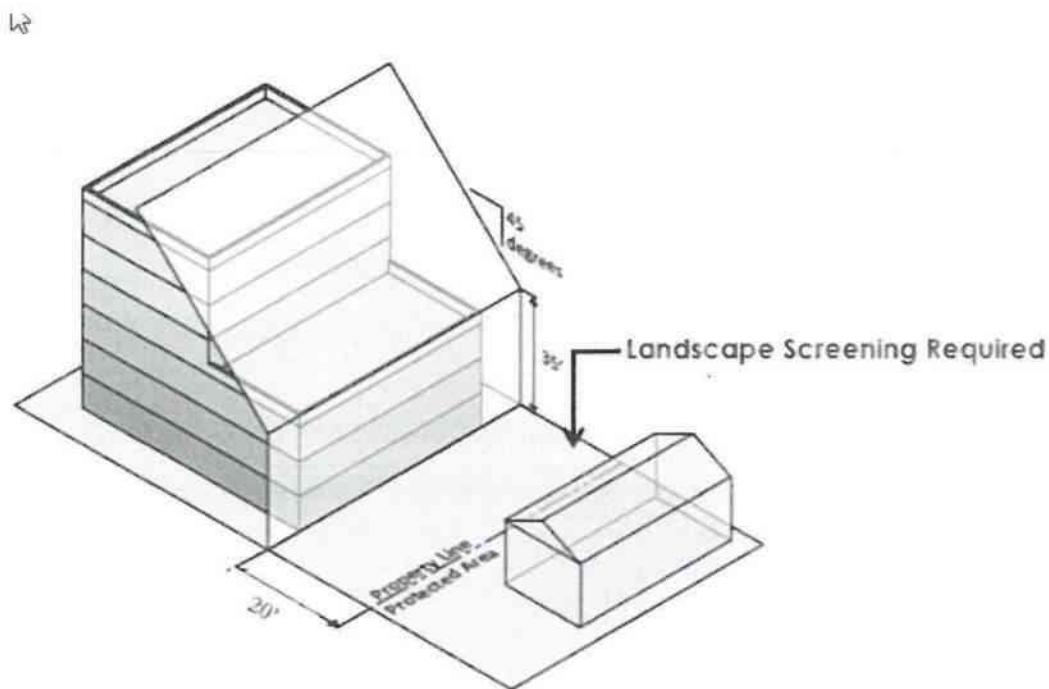
A twenty-foot "no build" and "no parking" buffer will be provided along any property line abutting an existing residential use. A landscape and irrigation plan shall be submitted showing the size, species and location of planting material as well as the design and building materials of a fence. The buffer must adequately screen the proposed development from abutting residential uses as determined by review by the Director of Planning and Development. At a minimum, buffer trees should be of three-inch to four-inch caliper.

The buffer will consist of a privacy fence and landscape screen as illustrated below.



Depth (min)	20'
Wall Height (min)	6'
Shade Trees (min per 100')	5
Understory Trees (min per 100')	4
Shrubs (min per 100')	40
Shrub Height (min)	4'

When abutting an existing residential use, in addition to the twenty-foot "no build" and "no parking" buffer, a step-up approach shall be applied to building heights as illustrated below. Building height will be limited to 35 feet for the first 25 feet after the twenty-foot buffer.



The required buffers are to be located so as not to interfere with safe emergency vehicle access and will be subject to review and approval by the Weymouth Fire Department.

§ 120-25.18. Density. [Amended 10-18-2021 by Order No. 21-107]

The building area for any building for occupancy shall not exceed a floor area ratio (FAR) of 0.50, as defined in § 120-6.

FAR, as defined here and in § 120-6, excludes commercial space and structured parking from FAR calculations.

§ 120-25.19. Coverage.

All proposals under this article shall dedicate a minimum of 15% of the total land area as open space. Further, a maximum building coverage of 60% shall apply and only 75% of any site shall be of an impervious material.

§ 120-25.20. Required parking.

A. Generally.

Parking shall be provided per below:

Studios and one bedrooms	1.25 spaces per unit minimum with 1.5 spaces maximum
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All other residential	1.5 spaces per unit minimum with 2 spaces maximum
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If the proposed development site is within 1,000 feet of an MBTA Commuter Rail station, the Board of Zoning Appeals may accept a reduction in the above requirements to 1.0 space per studio or one-bedroom unit and 1.25 for other units.

The number of spaces required for other uses are pursuant to § 120-74 of this ordinance.

B. Shared parking arrangements.

The Town encourages the use of shared parking arrangements. The Board of Zoning Appeals may consider proposals of this kind as justification for at most a twenty-percent reduction in the required on-site parking.

In considering proposals for shared parking, the Board of Zoning Appeals shall use the following criteria:

- (1) Uses sharing the parking facility may be on a separate lot, but shall be a maximum of 600 feet from the closest parking space. The applicant must submit a copy of the formal, written agreement outlining the details of the shared use agreement;
- (2) The hours of operation and peak demand of the uses involved;
- (3) The applicant shall demonstrate that vehicles occupying a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week as the other shared use; and
- (4) The degree to which the applicant is committed to implementation of transit demand management measures such as those to promote car and van pooling, bicycling, and public transit.

§ 120-25.21. Complete Streets and Green Community requirements.

The Town of Weymouth has adopted the Commonwealth's Complete Streets Policy and has been designated as a Green Community. The Town is committed to ensuring that all proposals provide the amenities required to encourage multi-modal and clean energy transportation options. As such, the Town requires the following to be included as part of each development proposal:

A. Charging stations for electric, hybrid, or similar types of vehicles shall be installed with the below frequency based on parking spaces:

- (1) One to 25 spaces: zero.

- (2) Twenty-six to 50 spaces: one.
 - (3) Fifty to 100 spaces: two.
 - (4) One additional charging station for each additional 50 spaces thereafter.
- B. Bicycle racks shall be installed as part of each development. The required number of rack spaces shall be at least 15% of the total number of residential units.

§ 120-25.22. Split lots.

In cases of lots with split zoning, the overlay district shall extend over the entire lot.

§ 120-25.23. Building orientation, open facades, and screening.

- A. Buildings shall generally be sited to face streets and sidewalks of the main corridor with entrances located to provide convenient access from the sidewalk network.
- B. An accessible, primary pedestrian entrance to the building shall face an abutting street. For interior buildings sites, entrances should connect to a pedestrian way that provides convenient access to the abutting street and sidewalk network.
- C. Building walls facing the street should present an active facade incorporating windows, doors, columns, changes in materials, modulation of the facade, and similar details to add visual interest.
- D. Parking for ground level, non-residential uses may be provided along the front, the sides, or both the front and sides of the building while parking for residential uses is encouraged to be sited in the rear of the building or within an interior parking structure. A detailed landscape, irrigation, and lighting plan for all parking areas shall be submitted as part of the application.
- E. Any portion of an above-ground parking structure fronting a public way shall include facade details and landscaping to maintain an attractive streetscape.
- F. Dumpsters, heating, ventilation, air conditioning, mechanical, electrical and plumbing equipment and loading docks shall be fully screened from view.

ARTICLE VIIC
Historic Mill Overlay District
[Added 2-3-2020 by Ord. No. 19-107]

§ 120-25.24. Purpose and intent.

The Historic Mill Overlay District (HMOD) is recognized as a special location and place to be protected as a community resource because it represents an important part of the Town's heritage and because its unusual character creates an identity for Weymouth today.

The HMOD ordinance is established first and foremost to promote preservation of a historic resource, the George E. Keith Company Shoe Mill at 44 Wharf Street (parcel ID 19-172-25),

through adaptive re-use and to encourage the transformation of industrial/commercial uses to residential uses. It encourages:

- A. Adaptive reuse and site redevelopment for residential uses that are economically viable.
- B. Allow redevelopment for multifamily residential uses which are sensitive to the surrounding established uses.
- C. Opportunities for affordable housing.
- D. Opportunities for additional public access to Osprey Overlook Park and connections to the Back River Trail.
- E. Connections to the commuter rail station.

§ 120-25.25. Applicability.

The HMOD includes the Industrial (I-2) Zoning District bounded by Wharf Street and East Street as well as one R-1 property on East Street. This zoning district is shown on the map entitled "Historic Mill Overlay," dated November 22, 2019, and prepared by the Town of Weymouth, on file with the Town Clerk and hereby made a part of this ordinance. Specifically, the properties within the HMOD include Weymouth assessor's Parcel Numbers: 19-172-25, 19-172-26, 19-172-31, 19-251-8, 19-172-11.

§ 120-25.26. Relationship to existing zoning and other regulations.

- A. The HMOD shall not restrict the rights of any owner who elects to utilize the existing underlying zoning district regulations of the Weymouth Zoning Ordinance to develop or redevelop land. If an owner elects to utilize the HMOD to develop or redevelop land, the project shall conform to all applicable requirements of this district, including any regulations or guidelines that may be adopted to support this district.
- B. In the HMOD, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to such requirements.
- C. If the provisions of this ordinance are in conflict with any other section of the Weymouth Zoning Ordinance, the regulations of the HMOD shall govern.

§ 120-25.27. Administration.

- A. For purposes of this ordinance the Zoning Board of Appeals (BZA) is designated as the special permit granting authority (SPGA) for all uses allowed within the HMOD.
- B. The decision of the BZA for the HMOD special permit may be approval, approval with conditions, or denial of the requested special permit(s).
- C. Consistent with Article XXIVA of the Weymouth Zoning Ordinances (Site Plan Review Authority), the Planning Director will perform site plan review, including sign review, for all projects submitted under the HMOD.

- D. All uses allowed under the HMOD shall be by special permit.

§ 120-25.28. Preapplication meeting.

Prior to submitting an application to the Building Inspector for projects under the HMOD, applicants are strongly encouraged to contact the Planning Department and request a preapplication meeting with relevant Town officials. The purpose of the meeting is to present the project concept and discuss zoning, public safety, conservation, historic resources, housing concerns, etc., as applicable, in order to facilitate project development and coordinate the permitting processes. Project proponents are encouraged to bring sufficient information to the meeting to enable attendees to become familiar with the site and the project. This information includes photographs, a map of existing conditions, and a preliminary concept plan for the proposed project.

§ 120-25.29. Special permit/design review criteria.

The BZA and the Planning Director (under site plan review) shall each consider the criteria listed in §§ 120-25.29 and 120-25.30 before issuing a special permit/design review approval for development or redevelopment under the provisions of the HMOD:

- A. Adequacy of the site for the size of the proposed project.
- B. Suitability of the site for the proposed use(s).
- C. Degree to which the proposed project complies with the purposes of the HMOD.
- D. Extent to which the project contributes to the historic context of the HMOD.
- E. Extent to which affordable housing is a component of the project; 10% affordable housing should be considered.
- F. Extent to which the project contributes to public access and/or trail connectivity to land along the Back River Trail and Osprey Overlook Park.
- G. Impact on traffic and pedestrian flow, safety and access for emergency vehicles.
- H. Extent to which the project promotes sustainable building and site design.

§ 120-25.30. Design criteria.

Design criteria promote quality development that is compatible with the character of the HMOD and the desire for contextual, pedestrian-scaled projects. Compatible design helps to enhance the quality of life for all residents while strengthening the economic viability of the HMOD. The design criteria seek to encourage visual harmony and historic integrity, and encourage creative design solutions. It encourages a variety of choices for achieving design compatibility within the HMOD. The following design criteria shall be used to evaluate all projects that require a special permit and site plan review submitted under the provisions of the HMOD:

- A. New structures and additions shall relate to the pedestrian scale and residential scale of the surrounding neighborhood by including appropriate architectural details along the

ground floor of all facades that face streets, existing residential neighborhood, and pedestrian spaces.

- B. External building treatments of existing buildings shall relate to and be in harmony with the existing historic structure.
- C. Continuous lengths of flat, blank walls adjacent to streets and pathways are to be minimized.
- D. For visibility and accessibility, primary building entrances shall be located on main street frontages, to the extent possible.
- E. For parking located to the rear or side of the building, these secondary entrances to the building are to be visible and accessible from the parking lot.
- F. Any alteration to the historic structure shall use materials, colors and textures, massing, size, scale and architectural features that are compatible with the original structure(s). Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize an historic property shall be preserved. Any awnings and canopies shall be compatible with the architectural style of the building.
- G. All new residential structures approved under the HMOD shall incorporate architectural elements that are compatible with the existing historic mill or housing styles in the surrounding neighborhood.
- H. Mechanical equipment shall be screened, and if located on roofs, it shall be organized and designed so as not to appear to be a leftover or add-on element and to the maximum extent feasible shall incorporate baffles to mitigate any noises coming from such equipment.
- I. Projects shall enhance the pedestrian environment and bicycle circulation by providing safe and convenient pedestrian access into plans for existing buildings as well as new construction, and parking areas should be designed in concert with landscaping plans so as to:
 - (1) Minimize the number and size of curb cuts and provide sidewalks along Wharf and East Streets to the extent possible.
 - (2) Provide improvements to pedestrian access to buildings, sidewalks and parking areas with utmost consideration of pedestrian safety, handicapped access and visual quality.
 - (3) Provide pedestrian and/or bicycle paths connecting their site with abutting areas, as feasible, in order to promote pedestrian and bicycle circulation safety in area of the Mill District and Town-owned open space. When parking is located in the rear, pedestrian access via a pedestrian-oriented walkway through to the primary street is encouraged.
- J. Projects abutting Osprey Overlook Park and the Back River Trail shall ensure that existing public access to this area is maintained, and where none exists, public access is provided consistent with the Town's goal for more and improved trail access.

- K. As feasible, building rehabilitation and site design will incorporate green building techniques (such as those developed by the U.S. Green Building Council) and low-impact site design techniques aimed at protecting and enhancing the existing natural resources and buffer zones.
- L. Exposed storage areas, machinery, garbage dumpster, service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings and/or opaque fences.
- M. Underground utilities for new and redeveloped buildings are required unless physically restricted or blocked by existing underground obstructions, or not possible due to specific site conditions.
- N. Landscaping will be a critical component in any project proposal. Landscape plans shall show the type, size and location of all proposed plantings. The plan shall show the location of plantings, including use of plantings to buffer neighboring properties and along the street frontage and pedestrianways.
- O. Large parking areas or areas greater than 20 parking spaces shall be separated by landscaped islands of eight feet to 10 feet in width or in the alternative shall devote at least 5% of the interior of the parking lot to landscaping. In addition, a minimum of one shade tree shall be planted for every six parking spaces required or built, within appropriate locations on the lot(s). Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet of area. In the alternative, if the above parking design standards are not feasible, parking design stands shall utilize low-impact design techniques aimed at enhancing parking area by utilizing landscaping features and greenery that will meet the intent of this subsection.

§ 120-25.31. Uses.

Except as provided in the Zoning Act, MGL c. 40A, the Weymouth Zoning Ordinance or in this HMOD, no building, structure or land shall be used except for the purpose permitted in the underlying zoning or the HMOD as described. Any use not listed herein shall be construed to be prohibited.

The following uses are permitted within the HMOD subject to a special permit from the BZA and administrative site plan review by the Director of Planning and Community Development.

- A. Multifamily housing, including artist housing.
- B. Live/work units defined as the conversion of an existing commercial, industrial or institutional building into units used jointly for commercial and residential purposes whereby the residential use of the space is secondary or accessory to the principal use as a place of work.
- C. Two-family dwellings.
- D. Attached/detached townhouses.

§ 120-25.32. Affordable housing requirement.

Any residential project within the HMOD consisting of 10 or more residential units shall set aside a minimum of 10% of the units as affordable per U.S. Department of HUD limits for low income (80% or less of the Boston Cambridge Quincy HUD metro area median family income).

§ 120-25.33. Guidelines for adaptive reuse of existing mill structures.

In a redevelopment project, a minimum of 75% of the mill building's original exterior characteristics deemed to be of historic architectural significance must be preserved, restored, rehabilitated and redeveloped for residential use only. Determination of architectural and historical significance will be determined by the Planning Director in consultation with the Weymouth Historical Commission. Up to 25% of the existing building's footprint, including any out buildings deemed nonhistoric or structurally unsound, may be demolished and a structure(s) may be built on the demolished structure's footprint, or equivalent separate structure, provided that the new portion is in keeping with the character of the remaining building and does not exceed the height of the highest point of the existing principal mill structure. If the existing square footage of the mill building remains in its entirety, it may be expanded by an additional 15%, either attached to the main building or as a separate building.

§ 120-25.34. Density guidelines for new construction after demolition of existing mill buildings.

The following density requirements will apply to any new construction proposals initiated as the result of the demolition of the entire existing mill building only:

- A. FAR: 0.30.
- B. Minimum setbacks.

Front: 25 feet.

Side: 15 feet.

Rear: 20 feet.

- C. Height: four stories and 50 feet maximum.

- D. Lot coverage: 60% maximum with minimum 15% of site as open space; no more than 75% of site as impervious.

In addition to the required setbacks, an additional twenty-foot no build buffer will be required when a project abuts existing single-family residential property. The BZA may consider proposals with more than one principal structure.

§ 120-25.35. Density guidelines for other new construction.

The following guidelines will apply to any new construction proposals not covered by 120-25.33:

- A. FAR: 0.30 for multifamily residential.
- B. Minimum setbacks.
 - Front: 25 feet.
 - Side: 15 feet.
 - Rear: 20 feet.
- C. Height: three stories and 40 feet maximum.
- D. Lot coverage: 60% maximum with 15% of site as open space; no more than 75% of site as impervious.

§ 120-25.36. Parking.

The following parking ratios will apply to all development proposals within the HMDO:

- A. Studios and one-bedrooms: 1.5 spaces per unit.
- B. Two-bedrooms: two per unit.

To promote a pedestrian friendly environment, parking in front of buildings is discouraged. Parking areas shall include provisions for the parking of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking. For parking areas of 10 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces or fraction thereof.

Provisions shall be made for electric charging stations. The provision of electric vehicle charging devices in existing or future parking spaces shall not reduce the number of required spaces. Electric vehicle charging stations on parking spaces that meet the size standards of this ordinance for a parking space shall count as parking spaces in all respects. The number of parking spaces set aside for electric vehicles shall be determined by both the Building Inspector and Planning Director.

ARTICLE VIID
Jackson Square Overlay District
[Added 6-6-2022 by Order No. 22-035]

§ 120-25.37. Purpose.

The Jackson Square Zoning Overlay District is an overlay zoning district. Parcels within the overlay district are first subject to the additional regulations of the overlay. In cases where there is a conflict, the regulations of the overlay zoning supersede the underlying zoning district.

The purpose of the Jackson Square Overlay District is to support a vibrant, mixed use village center that protects and enhances the significant natural resource of Herring Run Brook and connects the village and the brook to existing open space and recreational resources, including Lovell Field, Stephen J. Rennie Park, Iron Hill Park, and the Back River Trail. Existing public transit (bus and commuter rail), proposed improvements to encourage walking and biking, and municipal parking (on-street and off-street) provide multimodal transit options connecting the surrounding neighborhoods to Jackson Square. These goals are consistent with the Town's commitment to Complete Streets, the Weymouth Master Plan and the Jackson Square Land Use Plan.

It is hereby declared to be the intent of the Jackson Square Overlay District to establish reasonable standards that permit and control mixed-use residential, commercial, governmental, institutional, and office uses in the Town of Weymouth. New development or substantial additions to or rehabilitation of existing buildings should accomplish the following goals:

- A. Be sympathetic to the massing and form of existing built structures and the architectural detailing of historic structures.
- B. Enhance the public realm by creating outdoor open spaces linked to existing open spaces, providing, over time, a continuous network of publicly accessible space along the Herring Run Brook.
- C. Support amenities for pedestrians and bicyclists, including public seating in areas of shade and sun, bicycle storage, and active, welcoming ground-floor facades.
- D. When feasible, adapt existing historic structures for new commercial uses that support the adjacent neighborhoods.
- E. Increase the variety of housing including ownership/rental models, different levels of affordability, and different sizes and layout to accommodate housing needs for a wide range of ages, incomes, and levels of mobility.
- F. Reduce the amount of impervious surface by reducing parking requirements by use, encouraging shared parking spaces and parking access, and using low-impact development techniques to capture stormwater on site, preventing surface water runoff into the Herring Run Brook or the Town's stormwater sewer system.

This article is intended to be used in conjunction with other regulations as adopted by the Town, including historic district guidelines, design guidelines, site plan review, and other local ordinances designed to encourage appropriate and consistent patterns of village development.

§ 120-25.38. Establishment of subdistricts.

The Jackson Square Overlay District is further divided into the following three (3) subdistricts as formally delineated on the Town of Weymouth Zoning Map.

- A. Lower Jackson Square (LJSD).
- B. Upper Jackson Square (UJSD).

C. Upper Commercial Street (UCSD).

§ 120-25.39. Applicability.

- A. Within the Lower Jackson Square District (WSD) three-story projects of 40 feet or less adhering to the criteria contained within this article are permitted as of right with site plan review per Article XXIVA and the additional guidelines of this Article. A special permit may also be granted by the Board of Zoning Appeals for mixed-use buildings of up to four stories and 50 feet comprised of commercial use(s) occupying 51% or more of the ground floor and office and/or residential on the upper floors. The fourth floor shall be set back and not to exceed 75% of the area of the floor below.
- B. Within the Upper Jackson Square District (UJSD) on a lot(s) of 10,000 square feet or more, mixed-use or commercial projects of three stories and 40 feet or less in compliance with the stated goals and criteria of this article are permitted as of right with site plan review per Article XXIVA.
- C. Within the Upper Commercial Street District (UCSD) low density residential development including detached and attached townhomes with a maximum of 2.5 stories and 35 feet are permitted as of right provided that the lot(s) consist of 15,000 square feet or more. All such proposals require site plan review per Article XXIVA. Any proposals on lots containing less than 15,000 square feet require a special permit from the Board of Zoning Appeals.

§ 120-25.40. Affordable housing density allowance.

In specific areas defined below, the Board of Zoning Appeals may consider an additional partial floor in exchange for a commitment from the applicant to make a minimum of 10% of all units affordable to households at or below 80% of the Boston-Cambridge-Quincy Metropolitan Statistical Area Median Income Level. The rental rate for these households will be determined by using the monthly rental rates for studio/efficiency and one-bedroom and two-bedroom units in Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area for the applicable fiscal year as published by the U.S. Department of HUD, as the FY Fair Market Rent Documentation System - Final FY Boston City FMR's By Unit Bedrooms. Affordability restriction will be in perpetuity. With a special permit granted under this section, the following allowances may be given:

- A. Within the Lower Jackson Square District, the Board of Zoning Appeals may consider a partial fifth floor not to exceed 60 feet which is additionally stepped back a minimum of five feet on all sides from the floor below. (Allowable height supersedes limits designated in § 120-25.41C.)
- B. Within the triangular portion of the Upper Jackson Square District bordered by Cottage Street on the west, Broad Street on the south, and Commercial Street on the north, the Board of Zoning Appeals may consider a partial fourth floor not to exceed 75% of the area of the floor below and not to exceed 50 feet. (Allowable height supersedes limits designated in § 120-25.41C.)
- C. In considering this request the Board will consider the purpose and intent of this article and must specifically consider:

- (1) The extent to which topography minimizes the visual impact from the streetscape and other view corridors.
- (2) The comparative scale of the proposal to abutting properties.
- (3) The extent to which architectural techniques and materials work to soften and project as a whole. The use of landscaping to soften the transition is also encouraged.
- (4) The extent to which the design and location of the additional floor is sympathetic to the visual impact on all sides.

§ 120-25.41. Intensity of use.

No structure shall be erected, altered or moved, except in conformity with the following overlay district requirements:

A. Front yard setback:

- (1) The principal facade shall be set back no further than the setback of one of the adjacent buildings or the average of both unless the front yard setback includes publicly accessible open space, such as a small plaza, as an integrated component of the overall development. If no building is adjacent to the parcel, then the measure is the closest building on the same side of the principal street.
- (2) Parking and loading shall not be allowed in the front yard setback.
- (3) Porches, porticos, stoops, bay windows, and other architectural protrusions integrated into the principal facade are allowed within the front yard setback but may not extend into or over the public right-of way.
- (4) The area between the principal facade and the public right-of-way shall be appropriately landscaped.

B. Rear or side yard setback:

- (1) Minimum of 20 feet from an abutting single-family residential use.
- (2) Minimum of 20 feet from Herring Run Brook whether the brook is visible or below the surface of the lot. To accomplish the purposes of this article, the Board of Zoning Appeals is authorized to grant a special permit reducing the required setback upon a showing that the proposed development has made a significant effort to address the goals of the Jackson Square Land Use Plan (2021) with respect one or more of the following: 1) expansion of the Herring Run Pool Park; 2) removal of invasive species from the banks of the brook; 3) daylighting the brook with appropriate channeling and plantings; and 4) elimination of the surface water run-off from the site into the brook. The twenty-foot minimum setback is for zoning purposes only and does not supersede the requirements of the Massachusetts Wetlands Protection Act and the Weymouth Wetlands

Regulations as enforced by the Weymouth Conservation Commission.⁸ Where applicable, a separate application to that Commission will be required.

- (3) Where appropriate, rear and side yard setbacks shall connect to public open space and be used for active and passive public uses such as outdoor dining and retail, seating areas (shaded and open), bike racks, and other amenities designed to support local businesses and reinforce community pride and connections.

C. Maximum height:

- (1) Within the Upper Commercial Street district, a maximum of 2.5 stories and 35 feet is permitted by right with site plan review.
- (2) Within the Upper Jackson Square district, a maximum of three stories and 40 feet are permitted by right with site plan review.
- (3) To accomplish the purposes of this article, the Board of Zoning Appeals may issue a special permit to proposals within the Lower Jackson Square District (WSD) to allow an increase in the height of structures either in existence, as reconstructed, or as new construction to four stories and 50 feet. The relaxation of this requirement shall be allowed subject to a finding that the additional height is required to meet the development criteria for this zoning district. Three stories with a maximum of 40 feet are permitted by right with site plan review.
- (4) The floor-to-floor height of the ground floor shall be between 12 feet and 15 feet, suitable for retail and restaurant uses, consistent with current practice for such uses.

D. Maximum lot coverage: 80% (buildings and parking).

- (1) To accomplish the purposes of this article, the Board of Zoning Appeals is authorized to grant a special permit to allow a higher lot coverage for structures either in existence, as reconstructed, or as new construction. The relaxation of this requirement shall be allowed subject to a finding that the additional lot coverage is required to meet the site and design criteria for this zoning district.

§ 120-25.42. Required parking spaces.

Off-street parking spaces within the Jackson Square Overlay District shall be provided in accordance with the following minimum requirements. All other requirements related to parking shall be as defined in Article XVII, Off-Street Parking.

- A. Residential: A minimum of one parking space shall be provided for each studio housing unit. A minimum of 1.5 spaces are required for all other unit types. All parking for residential uses must be provided for on-site or on a lot under the same ownership and within reasonable walking distance as determined by the Board. For the commercial component, at least 75% of the required parking must be provided on-site.

8. Editor's Note: See MGL c. 131, § 40, and 310 CMR 10.0.

- (1) The use of off-site parking and/or shared parking to meet no more than 25% the minimum required spaces of the proposed commercial use can be considered in the following circumstances:
- (a) A written agreement, with a minimum of a five-year duration, between the applicant and a property owner, including the Town and/or the MBTA, to lease overnight parking spaces to meet the required minimum. Space must be located within 1,000 feet of the lot line. If the conditions for shared parking become null and void and the agreement is discontinued, this will constitute a zoning violation for any use approved expressly with shared parking. The property owner must then provide written notification of the change to the Zoning Enforcement Official and, within 60 days of that notice, provide a remedy satisfactory to the Board of Zoning Appeals or other relevant regulatory body.
- (b) Demonstrated that the mix of uses on-site allows for the sharing of parking spaces based on the anticipated peak demand for each use.
- B. Eating and drinking establishments: one space for each four seats.
- C. Retail, office and other commercial: one space per 400 square feet of gross floor area.
- D. Charging stations for electric, hybrid, or similar type vehicles shall be installed with the below frequency based on parking spaces:
- (1) One to 10 spaces: none.
- (2) Eleven to 25 spaces: one.
- (3) Twenty-six to 50 spaces: two.
- (4) Fifty-one to 100 spaces three.

§ 120-25.43. Special permit standards and criteria.

In addition to the specific criteria regarding the granting of a special permit in Article XXV, the Board of Zoning Appeals shall issue a special permit only after consideration of all the following:

- A. Impact on the neighborhood visual character, including architectural design, views and vistas.
- B. Degree to which the proposed use will share an access driveway and/ or parking with an adjacent use and avoids new curb cuts.
- C. Compliance with the site and design standards in this zoning article.
- D. Degree to which the proposed project complies with the goals of the Jackson Square Land Use Plan (2021), the Weymouth Master Plan, and the provisions of this article.

§ 120-25.44. Site and design standards.

The following development standards shall be used for all applications requiring site plan approval from the Zoning Board of Appeals and/ or the Director of Planning and Community Development.

A. Criteria for the entire overlay district.

- (1) The principal facade shall be oriented toward the principal street. The main building entrance shall face the street and clearly connect to the public sidewalk.
- (2) Ground floor retail, restaurant, and other commercial uses shall be oriented with their primary entrance and window(s) facing the principal street. The relationship of these uses to the principal facade shall maximize pedestrian activity and the visibility of the businesses along the length of the principal facade.
- (3) A minimum of 60% of the street-facing building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor nonresidential space or product display areas. The bottom edge of such windows shall be no lower than three feet above the adjacent sidewalk and the window shall be no less than four feet in height.
- (4) In both the Upper and Lower Jackson Square Districts, the commercial use, including restaurant, retail or other active use that serves the public, must be a minimum of 51% of the gross floor area of the floor at street level.
- (5) The principal facade shall be articulated every 60 to 80 feet. All facades shall be treated with equal care in terms of design. Blank walls are prohibited.
- (6) Building and site lighting shall be designed to prevent light overspill or glare onto adjacent properties and shall be shielded at a seventy-five- to ninety-degree cutoff.
- (7) Underground utilities for new and redeveloped buildings are required unless physically restricted or blocked by existing underground obstructions.
- (8) Parking and loading/unloading shall be prohibited from the front yard setback between the principal facade and the street. The location of loading areas will be reviewed by the Town of Weymouth Traffic Engineer to ensure that it does not conflict with pedestrian or automobile movement.
- (9) Access to rear parking shall have clearly marked and lit pedestrian access to the public sidewalk.
- (10) Bicycle storage shall be required at a ratio of one bicycle storage space for every 20 parking spaces.
- (11) The number of curb cuts onto the street shall be minimized and shared parking across multiple parcels shall be strongly encouraged.
- (12) New construction or significant rehabilitation shall retain all stormwater on-site, using rain gardens, bioswales, or other methods to allow stormwater to infiltrate rather than washing into Herring Run Brook. Applicants shall discuss the

proposed maintenance of these low-impact development installations with the Board to ensure continual effectiveness of the operations.

B. Criteria for Lower Jackson Square District.

- (1) Curb cuts shall not be allowed on the south side of Broad Street, between Pleasant Street and Water Street.
- (2) New construction or additions on the north side of Broad Street between the two intersections with Commercial Street shall provide one or more view corridors into Lovell Field.
- (3) New construction or additions on parcels adjacent to Herring Run Brook shall require new publicly accessible open space which connects existing publicly accessible space next to the brook (including Herring Run Pool Park, Stephen Rennie Park, and any future daylighted areas) and provide direct pedestrian connections from this open space to the public sidewalk and to parking, if appropriate. Such open space shall have a combination of landscape, hardscape, and amenities, including, but not limited to, benches and bicycle racks.
- (4) New construction or additions on parcels adjacent Lovell Field shall require new publicly accessible open space to the field and provide a direct pedestrian connection from the public sidewalk on Broad Street to Lovell Field.
- (5) It is encouraged that the top floor of the building be stepped back to minimize massing and a cavern effect.

C. Criteria for Upper Jackson Square District.

- (1) New development in the Upper Jackson Square District shall match one of the existing setbacks on either side of the property or the average of both unless a deeper setback is required for outdoor dining or retail display.
- (2) In this area, buildings over two stories generally have a narrower principal facade with a pitched roof. New development shall respect this pattern in the building form and massing.
- (3) It is encouraged that the top floor of the building be stepped back to minimize massing and a cavern effect.

ARTICLE VIII
Business District B-2

§ 120-26. Permitted uses. [Amended May 1987 ATM by Art. 52, approved 8-27-1987; May 1989 ATM by Art. 47, approved 7-28-1989; May 1993 ATM by Art. 55, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Business District B-2, no building or premises shall be erected, altered or used for any purposes injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause or for any

purpose; and, further, no building, group of buildings or premises shall be placed on either a lot of 40,000 square feet or more or contain 20,000 square feet or more of gross floor area except:

- A. Any use permitted in Business District B-1. See § 120-23.
- B. Commercial parking lot or parking garage.
- C. Rental agency for autos, trailers, motorcycles or bicycles, conducted entirely within a building.

§ 120-27. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Any use requiring a special permit in the Business District B-1, § 120-24A, B, C, D and F. [Amended May 1990 ATM by Art. 50, approved 9-13-1990]
- B. Drive-in restaurant.
- C. Multiple dwelling, see Table 1, Schedule of District Regulations, for density requirements. [Amended May 1987 ATM by Art. 52, approved 8-27-1987]
- D. Funeral home. [Added 12-20-2021 by Order No. 21-116]

§ 120-27.1. Special permit uses by Planning Board. [Added May 1987 ATM by Art. 52, approved 8-27-1987]

The following uses, or uses customarily accessory thereto, may be granted as special permit uses by the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Any permitted use or group of permitted uses in § 120-26A through C, which have either a lot area of 40,000 square feet or more or a structure with a gross floor area of 20,000 square feet or more.
- B. Any permitted use having drive-through service or windows. [Added May 1993 ATM by Art. 57, approved 7-9-1993]

§ 120-27.2. Prohibited uses. [Added 4-2-2018 by Ord. No. 17-127]

- A. Self-storage facilities.
- B. Outdoor sale of automobiles where the inventory of used cars exceeds 10% of the total inventory.

9. Editor's Note: Table 1 is included as an attachment to this chapter.

ARTICLE IX**Industrial District I-1**

[Amended April 1971 ATM by Art. 47, approved 8-24-1971; June 1978 STM by Art. 2, approved 11-2-1978]

§ 120-28. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In an Industrial District I-1, no building or premises shall be erected, altered or used for any purpose injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause or for any purpose except the following:

- A. Trade school for ages 16 and above conducted as a gainful business and machine shop or other noise-generating activity accessory to such a school.
- B. Sales of automobiles and trucks, where operation is carried on within the structure.
- C. Office building.
- D. Printing shop and caterer.
- E. Research laboratory.
- F. Wholesale business, jobbing or dispatching establishment and storage in roofed structure, but not including wholesale storage of flammable liquids, gases or explosives.
- G. Helicopter landing facility.
- H. Assembly, machine shop, manufacturing, auto repair, packaging, processing or other similar operation, whether making, repairing, finishing, packing or storing, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to fire, safety or health.
- I. Registered marijuana dispensary, provided not within 500 feet of a public or private primary or secondary school, licensed day-care center, public library, public park, public playground, or any facility in which children commonly congregate in a structured, scheduled manner. The five-hundred-foot distance is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD. [Added 7-14-2014 by Ord. No. 14-078]

§ 120-29. Special permit uses.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Storage of flammable liquids, gases or explosives.
- B. Motor freight or bus terminal and yards for the storage and servicing of trucks or buses.

- C. Open-lot storage of new building material, contractors' equipment, machinery and metals, other than scrap or junk, and similar materials, provided that any material stored in unenclosed premises to a height greater than four feet above grade level is surrounded by a substantial seven-foot-high wall, tight fence or a proper landscape screening.
- D. Accessory uses, whether or not on the same parcel as the permitted use of a research laboratory in § 120-28E, which are accessory to the necessary primary activities of a research laboratory or of scientific research or scientific development or related production; provided, however, that the Board of Zoning Appeals must first find that the proposed accessory uses do not substantially derogate from the public good.
- E. Place of recreation or assembly. [Added May 1994 ATM by Art. 56, approved 8-19-1994]

ARTICLE X
Planned Industrial Park District PIP
[Added February 1979 STM by Art. 1, approved 4-19-1979]

§ 120-30. Intent.

The purpose of the Planned Industrial Park District is to establish and preserve areas for industrial park development which allow industrial and related uses of such a nature as to promote orderly and harmonious industrial growth within the PIP District and to further promote industrial performance standards to reduce adverse environmental effects resulting from development within the district.

§ 120-31. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In a Planned Industrial Park District, the following uses are permitted:

- A. Assembly, manufacturing, packaging, processing or other similar operation, whether making, finishing and packing, but not including flammable liquids, gases, detonable material or the refining of petroleum products.
- B. Wholesale business, jobbing or dispatching establishment.
- C. Office building.
- D. Research laboratory.
- E. Printing shop and caterer.

§ 120-32. Special permit uses by Planning Board.

The following uses, or uses customarily accessory thereto, may be granted as special permit uses by the Planning Board subject to the conditions and requirements of Article XXV:

- A. Storage, utilization or manufacture of hazardous materials, subject to the conditions of § 120-34G and H.
- B. Motor freight or bus terminal and yards for the storage and servicing of trucks or buses.
- C. Wholesale storage in a roofed structure not involved in the permitted use under § 120-31B.
- D. Open-lot storage of new building material, contractors' equipment, machinery and metals, other than scrap or junk, and similar materials, provided that any material stored in unenclosed premises to a height greater than four feet above grade is surrounded by a substantial seven-foot-high wall, tight fence or a proper landscape screening.
- E. Accessory uses, whether or not on the same parcel as the permitted use of a research laboratory in § 120-31D, which are accessory to the necessary primary activities of a

research laboratory or of scientific development or related production; provided, however, that the Planning Board must first find that the proposed accessory uses do not substantially derogate from the public good.

- F. Ancillary service establishments whose primary purpose is to serve existing industrial occupants and their employees, including but not necessarily limited to restaurant, limited retail sale of food, beverages and other convenience items or branch banking or credit union facilities.
- G. Hotel or motel.
- H. Place of recreation or assembly. [Added May 1994 ATM by Art. 56, approved 8-19-1994]

§ 120-33. Special permit uses by Board of Selectmen.⁸ [Added June 1994 STM by Art. 5, approved 8-25-1994; amended May 1996 ATM by Art. 54, approved 9-9-1996]

The following uses, or uses customarily accessory thereto, may be granted as special permit uses by the Board of Selectmen subject to the conditions and requirements of § 120-33.1 and Article XXV.

- A. Adult bookstore.
- B. Adult motion-picture theater.
- C. Adult club.

§ 120-33.1. Adult bookstore, adult motion-picture theater and adult club regulations and standards. [Added June 1994 STM by Art. 5, approved 8-25-1994; amended May 1995 ATM by Art. 57, approved 7-1-1995; May 1996 ATM by Art. 54, approved 9-9-1996]

- A. Adult bookstores, adult motion-picture theaters and adult clubs may not be located within 1,000 feet of each other and 500 feet of the nearest lot lines of:
 - (1) A residential district.
 - (2) Any establishment licensed under the provisions of MGL c. 138, § 12.
- B. Adult bookstores, motion-picture theaters, adult clubs and all advertising signs shall not be located within 50 feet of a public or private way and must be set back a minimum of 50 feet from all property lines.
- C. The application for a special permit under § 120-33 must include the following information:
 - (1) The name and address of the legal owner of the adult bookstore, adult theater or adult club.

8. Editor's Note: Former § 120-33, Site plan design standards, was repealed May 1993 ATM by Art. 56, approved 7-9-1993.

- (2) The name and address of all persons having lawful, equity or security interests in the adult bookstore, adult theater or adult club.
 - (3) The name and address of the manager.
 - (4) The number of employees.
 - (5) Proposed security precautions.
 - (6) The physical layout of the premises.
- D. Special permits shall not be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.

§ 120-34. Industrial performance standards.

The intent of performance standards is to reduce adverse environmental impacts within the PIP District, to assess potential industrial nuisances factually and objectively, to ensure that all industries will provide methods to protect the community from hazards and nuisances which can be prevented by process of control along with required site plans to the Planning Board for all permitted and special permit uses within the PIP District. The report shall, as a minimum, show how the proposed use of occupancy shall be issued unless the Planning Board has made a finding that all permitted and special permit uses have complied with these industrial performance standards within the Planned Industrial Park District. The Planning Board may require such information, data and testing, to be performed at the owner's or developer's expense, in order to achieve the finding of compliance.

A. Noise.

- (1) Noise shall be measured with a sound level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute (ANSI). Measurements shall be made at any point in adjacent lots or districts as indicated in Table I.

Table I
Maximum Permitted Sound Levels

Sound Measured Within PIP District	Continuous Slow-Meter Response [db(A)]	Impact Fast-Meter Response [db(A)]
At a point on the lot line of the subject lot nearest to the noise source	70	80
At a lot line abutting a commercial district	60	70
At a lot line abutting a residential district or school	50	60

- (2) Between the hours of 9:00 p.m. and 7:00 a.m., the permissible sound levels in any abutting residential district shall be reduced by five decibels for impact noises.
- (3) The following sources of noise are exempt from noise level regulations:
 - (a) Transient noises of moving sources such as automobiles and trucks.
 - (b) Noises of safety signals, warning devices and emergency pressure-relief valves.
 - (c) Noises emanating from temporary construction and maintenance activities between 7:00 a.m. and 7:00 p.m.

B. Vibration.

- (1) Vibration shall be measured at the lot line or district border as indicated in Table II below, and such measurement shall not exceed the particle velocities so designated. The instrument used for these measurements shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions. Maximum vibration is given as particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

Where:

$$PV = 6.28 F \times D$$

PV = Particle velocity, inches per second.

F = Vibration frequency, cycles per second.

D = Single amplitude displacement of the vibration, inches.

- (2) Maximum particle velocity shall be the vector sum of the three individual components recorded. Such particle velocity shall not exceed values given in Table II.

Table II
Maximum Ground-Transmitted Vibration

Vibration Measured Within PIP District	Particle Velocity (inches per second)
At a point on the lot line of the subject lot nearest to the vibration source	0.10
At a lot line abutting a commercial district	0.05
At a lot line abutting a residential district or school	0.02

- C. Air quality of emissions from all vents, stacks, chimneys, flues or other opening or any process, operation or activity shall be in accordance with the Commonwealth of Massachusetts, Department of Environmental Quality Engineering Regulations for the Control of Air Pollution. Ambient air quality standards for the Commonwealth of Massachusetts shall be the guide to the release of airborne toxic materials across lot lines. For those toxic materials that are not listed in the ambient air quality standards of the Commonwealth of Massachusetts, the release of such materials shall be in accordance with fractional quantities permitted as currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Measurement of toxic matter shall be at ground level or habitable elevation and shall not exceed 1/30 of the threshold limit across lot lines.
- D. Odors from any permitted or special permit use in the PIP District shall not be perceptible beyond lot lines of a subject parcel of land.
- E. Any process, operation or activity producing glare shall be conducted so that any direct or indirect illumination from the source of light shall not cause illumination in excess of 0.5 footcandle at the district borders of the planned industrial park. Flickering or flashing sources of illumination shall be controlled so as not to be visible beyond the district borders of the planned industrial park.
- F. Heat or cold from any process, operation or activity shall not alter the temperature of the air, land or water by more than 5° F. when measured at the district borders of the planned industrial park.
- G. Water supply; sewers.
 - (1) Organic and inorganic chemicals which have a maximum contamination level of 0.1 milligram per liter or less, as established under the Drinking Water Regulations of Massachusetts through the Department of Environmental Quality Engineering, may be manufactured or stored in the PIP District only with a special permit from the Planning Board, provided that it is determined that such material will not endanger the water supply.
 - (2) All buildings used in the PIP District must be connected to the sanitary sewer system. Discharge shall conform with the industrial discharge requirements of the Metropolitan District Commission.
 - (3) Construction and use of pretreatment facilities for wastes which cannot be discharged into the public sanitary sewer is prohibited.
 - (4) Salt (NaCl) application to roads, parking and other paved surfaces is prohibited.
 - (5) Oil-separation devices shall be installed in all catch basins draining paved surfaces.
 - (6) All roof drains shall be dispersed to preserve the groundwater recharge abilities of the land within the PIP District.
 - (7) Ancillary storage of naphthas (gasolines, kerosenes and mixtures of gasolines and oils which have a density of less than 0.86 gram per cubic centimeter) is permitted

in the PIP District only with a special permit from the Planning Board, provided that it is determined that such material will not endanger the water supply.

H. Detonable materials.

- (1) Detonable materials include but are not limited to all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, ROX, HMX, PETN and picric acid; propellants and components thereof such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetroxoles and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates and hydrogen peroxide in concentration greater than 35%.
- (2) Manufacture of or manufacturing processes which result in by-products of detonable material is strictly prohibited.
- (3) Storage or utilization of detonable materials, as well as storage, utilization or manufacture of high-hazard fire materials, shall be limited to quantities approved by the Fire Department and shall be contained in a suitable structure with setbacks as approved by the Weymouth Fire Department and Building Department.

§ 120-35. Signs and off-street parking.

- A. The provisions for signs set forth in Article XVI of this bylaw for Industrial District I-1 shall be applicable to the Planned Industrial Park District.
- B. The provisions for off-street parking set forth in Article XVII of this bylaw for Industrial District I-1 shall be applicable to the Planned Industrial Park District.

ARTICLE XA
Planned Office Park District POP
[Added October 1985 STM by Art. 23, approved 1-27-1986]

§ 120-35.1. Purpose.

The purpose of the Planned Office Park (POP) District is to provide a zone for a parklike development of general office and light industrial uses of such a nature as to promote orderly and harmonious growth; so as to control, avoid, mitigate or reduce the adverse environmental impacts attendant with such development; to protect adjacent land uses from incompatible industries; and to promote the operation and expansion of commerce within the district.

§ 120-35.2. Construal of district uses.

No building, structure or land shall be used and no building or structure shall hereafter be erected, altered, enlarged or maintained, except for one or more of the following uses. Any use not so specified hereunder shall be deemed prohibited.

§ 120-35.2.1. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. The following uses are permitted:

- A. Office park. [Amended 9-7-2004 by Ord. No. 04-133]
- B. Light industry associated with component assembly or packaging, but not including the processing or manufacturing of the same.
- C. Ancillary warehouse or storage facility associated with a principal use not to exceed 80% of the total floor area.
- D. Research and development buildings involving activities which do not utilize or store hazardous materials or wastes.

§ 120-35.2.2. Special permit uses.

The following uses may be allowed by the Planning Board subject to the issuance of a special permit pursuant to §§ 120-123 and 120-126 of this bylaw.

- A. Ancillary warehouse or storage facility associated with a principal use exceeding 80% of the total floor area.
- B. Research and development buildings involving activities which utilize or store hazardous material or wastes, notwithstanding the provisions of § 120-35.2.3A below.
- C. Hotel or motel.
- D. Retail sales and consumer service establishments on the ground level of a multi-story building. [Amended 4-2-2018 by Ord. No. 17-127]
- E. Light industrial uses associated with the processing or manufacture of durable or nondurable goods.
- F. Function hall, conference center or assembly hall. [Added August 1989 STM by Art. 5, approved 11-17-1989]
- G. Nursing home or assisted living facility. [Added June 1992 STM by Art. 5, approved 11-12-1992; amended 4-2-2018 by Ord. No. 17-127]
- H. Place of recreation or assembly. [Added May 1994 ATM by Art. 56, approved 8-19-1994]
- I. Restaurant, theater, or other entertainment establishment particularly when shared parking agreements can be established with existing businesses. All regulations contained in § 120-33.1 apply. [Added 4-2-2018 by Ord. No. 17-127]
- J. Parking structure as accessory to primary use. [Added 4-2-2018 by Ord. No. 17-127]

§ 120-35.2.3. Prohibited uses.

The following activities are expressly prohibited from the POP District:

- A. Storage, utilization, manufacture, processing or packaging of any hazardous materials, including but not limited to flammable liquids or gases, organic and inorganic chemicals and naphthas; any United States Environmental Protection Agency listed or characteristic hazardous waste; and detonable material.
- B. Application or utilization of deicing materials, including but not limited to salts (NaCl and CaCl_2), and other chemicals to paved surfaces.
- C. Open-lot storage of new building material, contractors' equipment, machinery, metals, scrap paper or junk.
- D. Terminals and yards for the storage and servicing of trucks or buses.

§ 120-35.3. Off-street parking.

Any permitted or special permit use shall be subject to the provisions of Article XVII of this bylaw for required off-street parking.

§ 120-35.4. Other requirements.

- A. All buildings in the POP District shall be connected to the sanitary sewer system.
- B. Oil separation devices shall be installed in all catch basins draining paved surfaces.
- C. All roof drains shall be dispersed to preserve the groundwater recharge abilities of the land within the POP District.

§ 120-35.5. Off-street loading and unloading.

Any permitted or special permit use shall be subject to the provisions of Article XVIII of this bylaw for required off-street loading and unloading space needs.

§ 120-35.6. (Reserved)¹⁰**§ 120-35.7. Dimensional requirements.**

Dimensional requirements for all uses in the POP District shall follow the district regulations applicable to the Planned Industrial Park District as shown on Table 1, Schedule of District Regulations, of this bylaw.¹¹

10. Editor's Note: Former § 120-35.6, Site plan review, was repealed May 1993 ATM by Art. 56, approved 7-9-1993.

11. Editor's Note: Table 1 is included as an attachment to this chapter.

ARTICLE XI
Industrial District I-2
[Amended June 1978 STM by Art. 2, approved 11-2-1978]

§ 120-36. Permitted uses. [Amended May 1989 ATM by Art. 48, approved 7-28-1989; May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, § 120-123E, for site plan review applicability for any of the permitted uses listed in this section. In an Industrial District I-2, no building or premises shall be erected, altered or used for any purposes injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause or for any purpose except the following:

- A. Uses permitted in Industrial District I-1, § 120-28A, B, C, D, E and F.
- B. Lunchroom, restaurant and cafeteria.
- C. Steam laundry and dry-cleaning and rug-cleaning establishment.
- D. Assembly, machine shop, manufacturing, auto repair, packaging, processing or other operation, whether making, repairing, finishing, packing or storing, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to fire, safety or health.
- E. Marina or yacht club and sales of boats, boat parts and accessories, fishing equipment, boat fuel and ice and similar supplies for boats, boat rental or charter, boat building, repair, service and storage.

§ 120-37. Special permit uses.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Any use requiring a special permit in an Industrial District I-1, § 120-29.
- B. Open-lot storage of new building material, contractors' equipment, machinery and metals, other than scrap or junk, and similar materials, provided that any material stored in unenclosed premises to a height greater than four feet above grade level is surrounded by a substantial seven-foot-high wall, tight fence or a proper landscape screening.
- C. Open-lot storage of coal, coke, sand or other solid fuel or similar material of such storage in silos or hoppers, provided that all dust and dirt incident to storage or handling is effectively confined to the premises, and further provided that any material stored in unenclosed premises to a height greater than four feet above grade level is surrounded by a substantial seven-foot-high wall or tight fence.
- D. Commercial parking lot or parking garage. [Amended May 1989 ATM by Art. 47, approved 7-28-1989]

- E. Water freight terminal facility, including docks, piers, wharves, storage sheds for waterborne commodities and rail and truck facilities accessory to water port facilities.
- F. Helicopter landing facilities.
- G. Place of recreation or assembly. [Added May 1994 ATM by Art. 56, approved 8-19-1994]

ARTICLE XII Open Space District OSD

§ 120-37.1. Reuse of surplus public and quasi-public property. [Added November 1981 STM by Art. 12, approved 3-3-1982]

- A. Intent. The special permit use process allows for the reuse of surplus public and quasi-public properties. It is intended to allow for innovative designs that will permit a practical reuse of these properties as well as result in a balanced development of high standards. It is further intended to provide safeguards that will prevent detrimental effects and impacts on the neighboring properties, especially on abutting residential districts. The following uses, uses customarily accessory thereto, dimensional requirements, signs and parking may be granted as a special permit by the Planning Board subject to the conditions and requirements of Article XXV insofar as they comply with the intent expressed herein.
- B. Uses.
 - (1) A building or group of buildings for occupancy by two or more families in separate dwelling units and any accessory uses and structures customarily associated therewith, including swimming pools, recreation facilities, garages and the like.¹¹
 - (2) Clinic or office of business, professional or financial organizations.
 - (3) Trade, professional or other school conducted as a gainful business.
 - (4) Retail sales and services such as convenience grocery stores, newsstands, barbers, hairdressers, drugstores and like facilities primarily for the use of on-site residents, tenants or patrons, provided that retail uses and services do not constitute more than 25% of the floor area of the building.
 - (5) Light assembly or packaging of components or merchandise associated with office uses. [Added October 1985 STM by Art. 21, approved 1-27-1986]
- C. Dimensional requirements.

11. Editor's Note: Former Subsection B(2), regarding licensed day-care nursery centers, which immediately followed this subsection, was repealed May 1992 ATM by Art. 46, approved 10-1-1992.

- (1) Minimum lot size: 20,000 square feet for newly constructed lots.
 - (2) Minimum lot area (square feet per dwelling unit): all buildings for multiple-family residential use based on a floor area ratio of 0.25. See § 120-6.
 - (3) Front yard depth: minimum of 20 feet for buildings and five feet of landscaped space for paved areas, excluding entrance drives.
 - (4) Side and rear yards depth: minimum of 25 feet for buildings and five feet of landscaped space for paved areas.
 - (5) Lot coverage: maximum of 80% of lot area for buildings and paved areas (parking, drives and loading areas).
 - (6) Height: maximum of 35 feet for new construction.
- D. Signs. Requirements for signs shall be determined by the special permit granting authority based on proposed uses, i.e., residential uses shall follow § 120-64.1 and all other uses shall follow §§ 120-64.2 through 120-64.4. When the property fronts in a predominately residential neighborhood, the sign requirements shall be reviewed to mitigate any adverse impacts. All other sections of Article XVI shall apply as necessary.
[Amended May 1989 ATM by Art. 48, approved 7-28-1989]
- E. Parking. Off-street parking spaces shall be provided in accordance with the following minimum requirements:
- (1) Dwellings, multiple: 1.5 spaces for each dwelling unit.
 - (2) Medical offices: 0.6 space for each 100 square feet of floor area.
 - (3) Offices, all other types: 1/3 space for each 100 square feet of floor area.
 - (4) Retail business and service establishments: 1/2 space for each 100 square feet of floor area.
 - (5) Unlisted requirements: Reasonable off-street parking requirements for buildings and uses not listed in this section shall be determined by the special permit granting authority.
 - (6) All other sections of Article XVII shall apply as necessary.

§ 120-38. Permitted uses.

In an Open Space District, no building or premises shall be erected, altered or used for any purpose except:

- A. Municipal use.
- B. Cemetery.

**ARTICLE XIII
Floodplain District**

[Added May 1980 by Art. 50, approved 8-27-1980; amended January 1990 STM by Art. 16, approved 3-26-1990]

§ 120-38.1. Intent.

The Floodplain District is established for the following purposes:

- A. To promote the health, safety and welfare of the occupants of land against the hazards of flooding.
- B. To preserve and protect the streams and other watercourses in Weymouth and its adjoining lands.
- C. To protect the community against detrimental use and development which cause increases in erosion, flood heights or flood velocities.
- D. To minimize losses by provisions designed to restrict or prohibit uses which are dangerous to health, safety or property due to water or erosion hazards.

§ 120-38.2. Establishment; determination of boundaries.

- A. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas within the Town of Weymouth designated as Zone A, AE, AO, or VE on the Norfolk 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 Norfolk County FIRM that are wholly or partially within the Town of Weymouth are panel numbers 25021C0089E, 25021C0093E, 25021C0226E, 25021C0227E, 25021C0228E, 25021C0229E, 25021C10231E, 25021C0233E, 25021C0236E, 25021C0237E, 25021C0238E, 25021C0239E, 25021C0241E, and 25021C0243E, dated July 17, 2012. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk. **[Amended May 1999 ATM by Art. 18, approved 8-19-1999; 6-18-2012 by Ord. No. 12-091]**
- B. The boundaries of the Floodplain District shall be determined by scaling distance on the National Flood Insurance Program maps. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the National Flood Insurance Program maps, the Inspector of Buildings shall make the necessary interpretation.
- C. Any discrepancy with the boundaries and/or elevations as given on the Flood Insurance Rate Map (FIRM) shall be submitted to the Federal Emergency Management Agency, Flood Insurance Administration, for its approval; otherwise, the conditions and requirements of this bylaw shall apply to the land in accordance with the Floodplain Zone as shown.

D. Notification of watercourse alteration. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse: **[Added 6-18-2012 by Ord. No. 12-091]**

- (1) Adjacent communities.
- (2) National Flood Insurance Program (NFIP) State Coordinator, MA DCR.
- (3) NFIP Program Specialist, FEMA.

§ 120-38.3. Permitted uses.

- A. Within the Floodplain Overlay District, all uses shall follow the specific permitted uses and special permit uses of the underlying zoning district.
- B. All provisions of this bylaw affecting a permitted use shall be applicable in the Floodplain District.
- C. The special permit granting authority shall be the Board of Zoning Appeals. **[Amended 6-18-2012 by Ord. No. 12-091]**
- D. In addition to all provisions of this bylaw that affect the underlying district, the following additional procedures shall apply for all filling, permitted uses, special permitted uses and substantial improvements of any structure (the cost of which equals or exceeds 50% of the market value of the structure) where any portion of such lies within the various floodplain zones as stipulated below: **[Amended May 1993 ATM by Art. 56, approved 7-9-1993; May 1999 ATM by Art. 18, approved 8-19-1999; 6-18-2012 by Ord. No. 12-091]**
 - (1) Zones A, AO, AE: A special permit from the special permit granting authority is required, subject to the special criteria set forth in §§ 120-38.4 and 120-38.5 and subject to the procedures of § 120-123.
 - (2) Zone VE.
 - (a) A special permit from the special permit-granting authority is required, subject to the criteria set forth in §§ 120-38.4 and 120-38.5 and subject to the procedures of § 120-123 when any portion thereof is located landward of mean high tide.
 - (b) Seaward of mean high tide new structures are prohibited and existing structures shall not be enlarged.
 - (c) Man-made alteration of sand dunes within Zone VE which would increase potential flood damage is prohibited.
 - (3) Floodway, as shown on the maps, is essentially the natural drainage for the one-hundred-year floodwaters, comprising streams, brooks, etc. No building, filling or other encroachment is permitted in floodway.

- (4) 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.

§ 120-38.4. Special permit uses.

- A. The special permit granting authority may require such information, data and testing to be performed at the applicant's expense in order to achieve a finding of compliance. Such information may include but not be limited to spot elevations and drainage calculations.
- B. The special permit granting authority may approve any application for a special permit where specified in § 120-38.3D(3) only if it finds that, in its judgment, all of the following criteria are met:
 - (1) The subject land is not subject to flooding or, if Subsection B(1) is not proven, then:
 - (2) The subject land is not unsuitable because of drainage conditions on-site as well as on abutting properties upstream and downstream.
 - (3) The proposed activity will not increase the water surface elevation of the one-hundred-year flood at any point within the Town.

§ 120-38.5. Construction criteria for special permits.

The following criteria shall apply to any special permit use granted within the one-hundred-year floodplain:

- A. All new construction and substantial improvements of residential structures shall have the lowest portion of all structural members supporting the lowest floor, including basement or cellar, elevated at least one foot above the one-hundred-year-flood elevation.
[Amended May 1999 ATM by Art. 18, approved 8-19-1999]
- B. All new construction and substantial improvements of nonresidential structures shall be floodproofed at least to a point one foot above the one-hundred-year flood elevation. "Floodproofed" shall mean watertight, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic loads and the effect of buoyancy.
- C. Within the Floodplain District, one-hundred-year flood elevations shown on the approved Flood Insurance Rate Map shall govern. Where the one-hundred-year flood elevation is not provided, the Planning Board shall produce and maintain any already existing one-hundred-year flood elevation data, and it shall be used to meet the above requirements.
- D. All subdivision proposals must be designed to assure that: **[Amended May 1999 ATM by Art. 18, approved 8-19-1999; 6-18-2012 by Ord. No. 12-091]**

- (1) Such proposals minimize flood damage;
 - (2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards.
- E. Within Zone AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
[Added 6-18-2012 by Ord. No. 12-091]

§ 120-38.6. Reference to existing regulations. [Amended May 1999 ATM by Art. 18, approved 8-19-1999]

The Floodplain District is established as an overlay district to all other districts. All development in the floodplain, including structural and nonstructural activities, whether permitted by right or by special permit, may be subject to compliance with other regulations such as, but not limited to:

- A. MGL c. 131, § 40.
- B. Massachusetts State Building Code, 780 CMR 3107.0, Flood Resistant Construction.
- C. Inland Wetland Restriction, DEP, 302 CMR 6.00.
- D. Coastal Wetlands Restriction, DEP, 302 CMR 4.00.
- E. Minimum Requirements for Subsurface Disposal of Sanitary Sewerage, DEP 310 CMR 15, Title 5.

**ARTICLE XIII
Nonconforming Uses**

[Amended June 1978 STM by Arts. 2 and 3, approved 11-2-1978]

§ 120-39. Continuation.

Any building or structure or any use of a building or structure or premises or part thereof lawfully existing at the time this bylaw or any amendment thereto is adopted may be continued although such building or structure or use does not conform to the provisions thereof. This article shall not apply to nor grant any exemption to any billboards, signs or other advertising devices subject to MGL c. 93, §§ 29 to 33 and MGL c. 93D.

§ 120-40. Extension or change by special permit. [Amended May 1989 ATM by Art. 49, approved 7-28-1989]

Any lawful building or structure or use of a building or structure or premises or part thereof at the time this bylaw or any amendment thereto is adopted may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such change, extension or alteration shall not be substantially

more detrimental than the existing nonconforming use to the neighborhood, subject to the conditions and requirements of Article XXV of this bylaw.

§ 120-41. Exception to limitation on restoration by special permit. [Amended May 1989 ATM by Art. 49, approved 7-28-1989]

No building or structure which has been damaged by fire or other causes to the extent of more than 3/4 of its value shall be repaired or rebuilt except in conformity with this bylaw, unless the Board of Zoning Appeals finds that the restoration is for the same use and that the building or structure is not substantially greater in area, height or size and not nearer to adjoining lots, subject to the conditions and requirements of Article XXV of this bylaw.

§ 120-42. Abandonment or discontinuance. [Amended May 1989 by Art. 49, approved 7-28-1989]

If the nonconforming use of any building or structure shall be abandoned or shall be discontinued for a period of 24 consecutive months, it shall not be reestablished, and all future use thereof shall be in conformity with the applicable provisions of this bylaw, unless prior to the expiration of the 24 months permission to reestablish said use has been applied for and thereafter granted by special permit from the Board of Zoning Appeals.

§ 120-43. Structures in progress with permits issued.

It is hereby provided that construction or operations under a building permit or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of not less than six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

ARTICLE XIV
Applicability of District Regulations

§ 120-44. Compliance with bylaw required.

No structure or land shall be hereafter used and no structure or part thereof shall be erected or moved nor shall the exterior be altered unless in conformity with the regulations of this bylaw for the district in which it is located, except as provided for in Article XIII.

§ 120-45. Open space.

No yard or open space required for a building by this bylaw shall, during the life of such building, be occupied by or counted as open space for another building.

§ 120-46. Visibility at intersections.

In any district where a front yard is required, no structure, fence or planting shall be maintained within 30 feet of any corner street line intersection and within the required front yard above a height of three feet above curb level or so as to interfere with traffic visibility across the corner.

§ 120-47. Projections into required yards. [Amended April 1971 ATM by Art. 47, approved 8-24-1971]

Nothing herein shall prevent the projection of steps, cornices, windowsills, balconies, chimneys, flues and fire escapes and other ornamental features into any required yard area.

§ 120-48. Reduction of lot area.

No lot on which is located any building in any district shall be reduced or changed in area or shape so that the building or lot fails to comply with the provisions of this bylaw. This section, however, shall not apply in the case of a lot a portion of which is indicated for a public purpose.

§ 120-49. Calculation of side yard area for certain yards.

Where a side wall of a building is not parallel with the side lot line, the required width of any side yard may be taken as the average width, provided that said side yard shall not be narrower at any point than 80% of the required width.

§ 120-50. Exceptions to height regulations. [Added May 1989 ATM by Art. 50, approved 7-28-1989¹¹; amended May 1992 ATM by Art. 34, approved 10-1-1992]

- A. The limitation of height in feet as set by § 120-51, Schedule of District Regulations (Table 1), and as further regulated by § 120-57, shall not apply to church spires or flagpoles.
- B. The limitation of height in feet as set by § 120-51, Schedule of District Regulations (Table 1), and as further regulated by § 120-57, may be extended an additional 10 feet for chimneys, antennas, ventilators, skylights, tanks, elevator/mechanical penthouses or other accessory features usually carried above roofs, provided that they are in no way used for living purposes.

11. Editor's Note: This article also repealed former § 120-50, Unusual buildings prohibited.

ARTICLE XV
Dimensional Requirements

§ 120-51. Schedule of District Regulations. ¹² [Added May 1989 ATM by Art. 51, approved 7-28-1989]

No structure shall be erected, altered or moved, except in conformity with Table 1, Schedule of District Regulations, included as an attachment to this chapter.

§ 120-52. Exception for erection of single-family dwelling on previously recorded lots. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

A single-family dwelling may be erected on a lot containing less than is hereby prescribed if such lot was recorded at the time of the adoption of this bylaw, if separately owned and containing not less than 5,000 square feet and if it did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot; provided, however, that any building erected thereon shall conform to all other provisions of this bylaw. See Table 1 for applicability.¹³

§ 120-53. (Reserved) ¹⁴

§ 120-53.1. Minimum upland area. [Added May 1986 ATM by Art. 46, approved 7-24-1986; amended May 1998 ATM by Art. 43, approved 10-23-1998; 1-17-2017 by Ord. No. 16-150]

Any lot created after January 17, 2017, shall have a minimum upland area, as defined in § 120-6, of 85% of the minimum lot area.

§ 120-53.2. Lot shape factor. [Added 1-17-2017 by Ord. No. 16-150]

No lot shall be created so as to be so irregularly shaped or extended that it has a "shape factor" in excess of 30. "Shape factor" equals the square of the lot perimeter divided by the lot area.

§ 120-54. Confinement of accessory uses to rear yard. [Amended May 1989 ATM by Art. 48, approved 7-28-1989]

Building of an accessory use, other than a private garage or carport, shall be confined to the rear yard area, and no building of any accessory use shall be permitted in the required front yard.

12. Editor's Note: Former § 120-51, Exception to minimum lot area requirement, amended February 1985 STM by Art. 7, approved 6-3-1985, was repealed 5-2-1988 ATM by Art. 51, approved 9-2-1988.

13. Editor's Note: Table 1 is included as an attachment to this chapter.

14. Editor's Note: Former § 120-53, Exceptions by Board of Zoning Appeals, as amended, was repealed 1-17-2017 by Ord. No. 16-150.

§ 120-55. One-story accessory use buildings. [Amended May 1989 ATM by Art. 48, approved 7-28-1989]

A one-story building of accessory use may be built no closer than five feet to a side lot line and/or the rear lot line.

§ 120-56. Front lot line, frontage and frontage width. [Amended April 1971 ATM by Art. 47, approved 8-24-1971; May 1983 ATM by Art. 48, approved 8-26-1983; May 1985 ATM by Art. 44, approved 7-25-1985; May 1990 STM by Art. 1, approved 8-29-1990; May 1997 ATM by Art. 42, approved 8-11-1997]

- A. Each lot shall have a front lot line, as said term is defined in § 120-6, of not less than 40 feet, unless stated otherwise in Table 1, Schedule of District Regulations, included as an attachment to this chapter.
- B. Lots within a Neighborhood Center District NCD shall have a minimum front yard depth of 18 feet unless the alignment of two or more existing buildings on lots on either or both sides of said lot and within a distance of 150 feet and fronting on the same side of the same street in the same block is nearer the street than the required front yard depth, in which case the average of the existing alignment of all buildings within that distance may be required front yard depth.
- C. Each lot shall have frontage and frontage width, as said terms are defined in § 120-6, of no less than 40 feet, unless stated otherwise in Table 1, Schedule of District Regulations, included as an attachment to this chapter.

§ 120-57. Height limits on structures abutting R-1 Districts or schools. [Amended May 1989 ATM by Art. 51, approved 7-28-1989; 4-2-2018 by Ord. No. 17-127]

If abutting a Resident District R-1 or school, no building or structure shall be erected to a height in excess of 2 1/2 stories, not to exceed 35 feet. See Table 1 for applicability.¹⁷

Applications for special permits under Article VIIB may substitute the requirements of § 120-25.17C with approval from the Board of Zoning Appeals.

§ 120-58. Exception for erection on previously recorded lots. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

A building may be erected on a lot containing less than is hereby prescribed if such lot was recorded at the time of the adoption of this article of the bylaw, if separately owned and containing not less than 5,000 square feet and if it did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot; provided, however, that any buildings erected thereon shall conform to all other provisions of this bylaw. See Table 1 for applicability.¹⁸

17. Editor's Note: Table 1 is included as an attachment to this chapter.

18. Editor's Note: Table 1 is included as an attachment to this chapter.

§ 120-59. Setback restrictions for buildings abutting residential districts or schools. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

If abutting a residential district or school, no building or structure shall be built or placed within 20 feet of a side lot line and/or a rear lot line. See Table 1 for applicability.¹⁹

§ 120-59.1. Measurements across lots. [Added February 1985 STM by Art. 7, approved 6-3-1985; amended May 1997 ATM by Art. 42, approved 8-11-1997]

If any lot in existence as of February 25, 1985, is to be subdivided into three or more lots or if any lot subsequently created is to be subdivided, then each subdivided lot shall have a minimum lot measurement across the front yard from side lot line to side lot line at any point from the lot line to the minimum lot width line at the front line of the building of not less than 60% of the minimum required lot width, and no portion of a principal building shall be erected on any portion of a lot which is less than the required lot width as set forth in these bylaws. Said minimum required lot width shall extend an additional 20 feet beyond the rear portion of the principal building.

§ 120-60. Lot width for areas where rear land available for development. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

In areas where there is rear land for development that may require access through the lots involved, then the lot width shall be 200 feet. See Table 1 for applicability.²⁰

§ 120-61. Side setback requirement for certain lots. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

If a lot has a lot width of less than 199 feet, then the buildings shall not be less than 15 feet from a side lot line. See Table 1 for applicability.²¹

§ 120-62. Location on lot restrictions for structures abutting R-1 Districts or schools. [Amended May 1989 ATM by Art. 51, approved 7-28-1989]

If abutting a Resident District R-1 or school, no building or structure shall be built or placed within 50 feet of a side lot line and/or a rear lot line. See Table 1 for applicability.²²

§ 120-62.1. Front yard landscaping. [Added May 1992 ATM by Art. 36, approved 10-1-1992]

The front yard area comprising the minimum required front yard setback depth and measured across the lot width shall be landscaped, except for required access driveways and walkways. The minimum landscaped depth may be reduced to 15 feet in the HT, MS and B-1 Zoning

19. Editor's Note: Table 1 is included as an attachment to this chapter.

20. Editor's Note: Table 1 is included as an attachment to this chapter.

21. Editor's Note: Table 1 is included as an attachment to this chapter.

22. Editor's Note: Table 1 is included as an attachment to this chapter.

Districts if a landscaping plan is approved by the Inspector of Buildings. See Table 1 for applicability.²³

§ 120-63. Planned unit developments. [Added June 1978 STM by Art. 2, approved 11-2-1978; amended May 1995 ATM by Art. 74, approved 7-1-1995]

If a special permit is sought pursuant to §§ 120-13, 120-18 and 120-22, the following minimum regulations shall be required:

- A. In addition to the requirements of Article XXV, the Planning Board will have to make a finding that the planned unit development plan is superior to a conventional plan for that zoning district in minimizing the environmental impacts, providing for protection of natural resources and allowing for more efficient provision of services and use of the land.
- B. Minimum land area shall be 25 acres in the R-1 Zone and five acres in the R-3 and R-4 Zones.
- C. The use of the land shall be a mixture of residential with open space and recreational uses and may include uses customarily accessory thereto.
- D. In an R-1 District, within a PUD, no structure shall be erected, altered or moved except in conformity with Table 1, Schedule of District Regulations,²⁴ as applicable to the R-1 District, with the following exceptions:
 - (1) The special permit granting authority shall approve all lot area, lot width and lot setback dimensions.
 - (2) All lots within a PUD shall conform to §§ 120-53.1, 120-54 and 120-56.
 - (3) A twenty-foot setback for all buildings, parking and loading shall be provided around the outside perimeter of a PUD.
- E. In R-3 and R-4 Districts, within a PUD, no structure shall be erected, altered or moved, except in conformity with Table 1, Schedule of District Regulations,²⁵ as applicable to the R-1 District, with the following exceptions:
 - (1) The special permit granting authority shall approve all lot area, lot width and lot setback dimensions.
 - (2) All lots within a PUD shall conform to §§ 120-53.1, 120-54, 120-56 and 120-57.
 - (3) A twenty-foot setback for all buildings, parking and loading shall be provided around the outside perimeter of a PUD.
- F. The number of dwelling units shall not exceed the number of dwelling units permitted under the zoning classification of the tract if the tract were developed pursuant to the Zoning Bylaw, the Subdivision Control Law, Massachusetts General Laws Chapter 131,

23. Editor's Note: Table 1 is included as an attachment to this chapter.

24. Editor's Note: Table 1 is included as an attachment to this chapter.

25. Editor's Note: Table 1 is included as an attachment to this chapter.

Weymouth Code Chapter 7, Section 7-300, Wetlands Protection, and other applicable laws and regulations.

- G. More than one building for residential purposes may be permitted on a lot in a PUD.
- H. More than one dwelling unit may be permitted in a building in a PUD.

ARTICLE XVI

Signs

[Amended February 1972 STM by Art. 6, approved 5-8-1972; October 1975 STM by Art. 19, approved 1-26-1976; May 1980 ATM by Art. 53, approved 8-27-1980; October 1982 STM by Art. 3, approved 1-11-1983; May 1983 ATM by Art. 48, approved 8-26-1983; October 1985 STM by Art. 22, approved 1-27-1986]

§ 120-64. (Reserved)

§ 120-64.1. Signs in residential districts.

No billboard, sign or other advertising matter of any kind shall be erected on any premises or maintained within public view or facing an adjoining residential lot in any residential district, except as hereinafter provided:

- A. One sign not exceeding two square feet in area and pertaining to the use of the premises or bearing the name and/or occupation of the occupant. The sign may be attached to the building or may be on a rod or post not more than six feet high and at least three feet from the street line.
- B. A lot containing 10 or more residential dwelling units may have either one wall sign or one freestanding sign for identification purposes which may contain any of the following: property name, address, property owner/manager and telephone number; and, further, subject to all size, height and lighting criteria applicable to these districts.
 - (1) Wall signs shall not exceed 12 square feet, nor shall any such sign project beyond the face of any other wall nor project more than 18 inches from said wall, and further provided that in no case shall the uppermost edge of such sign exceed 20 feet above grade.
 - (2) Freestanding signs shall not exceed 12 square feet per side with a total surface area of all sides not exceeding 24 feet, and further provided that such sign shall comply with height and setback criteria as specified for business districts.
- C. One "for sale" or "for rent" sign not exceeding six square feet in area and advertising only the premises on which the sign is located and, in any case, to remain no longer than a four-month period in any calendar year, after which period a permit may be given by the Inspector of Buildings for an additional four-month period upon written application, if need is shown.
- D. One building contractor's sign not to exceed 12 square feet in area may be temporarily maintained on the premises while the same are actually under construction.

- E. A permitted nonresidential or nonconforming use may have either one wall sign up to a maximum area of six square feet; or one freestanding sign up to a maximum area of six square feet per side, with a total surface area of all sides not exceeding 12 square feet.
- F. All signs may be illuminated by continuous reflected illumination only.
- G. No sign shall exceed 20 feet in height above grade.
- H. Political signs. Political signs shall be those signs pertaining to a candidate for election or ballot questions. Each sign shall not exceed six square feet in size. Signs shall be erected no earlier than 35 days prior to an election and shall be removed within three days after the election. [Added May 1992 ATM by Art. 47, approved 10-1-1992]

§ 120-64.2. Signs in Resident R-2 and Neighborhood Center Districts. [Amended May 1990 STM by Art. 1, approved 8-29-1990]

Signs in a Resident R-2 District and Neighborhood Center District advertising conforming uses shall be subject to the following conditions:

- A. Each place of business shall be allowed one permanent wall sign parallel to the exterior building facade, projecting not more than 12 inches from said wall and having an aggregate area of two square feet for each horizontal foot of building frontage of said business, provided that the area of said sign shall not exceed 20 square feet, and further provided that the uppermost edge of said sign shall not exceed 20 feet above grade or above the roofline, whichever is lower in height.
- B. Each lot shall be allowed one freestanding sign, provided that the foremost building on the lot is set back from the front lot line a minimum of 10 feet, subject to the following criteria:
 - (1) The sign area shall not exceed 15 square feet per side, with a total surface area of all sides not exceeding 30 square feet.
 - (2) Signs within 25 feet of a street or way line shall have either the uppermost edge of the sign no more than three feet above grade or the lowermost edge of the sign no less than eight feet above grade and the uppermost edge not to exceed 20 feet above grade.
- C. Signs shall be set back from any adjoining residential district lot line at least the front yard distance required in the adjoining residential district.
- D. Any lights used for illumination shall be so arranged as to reflect light away from an adjoining residential district.

§ 120-64.3. Signs in business districts. [Amended May 1990 STM by Art. 2, approved 8-29-1990; May 1990 STM by Art. 3, approved 8-29-1990]

Signs advertising conforming uses located on the premises are allowed with the following conditions:

- A. Wall signs parallel to an exterior wall of a building for each place of business shall be permitted, provided that the same shall not project beyond the face of any other wall, nor project above the roofline of said wall, nor project more than 18 inches from said wall, and provided further that the aggregate area of said signs shall not exceed one square foot for each horizontal foot of building frontage of each said business, and further provided that the area of said signs for each business shall not exceed 75 square feet.
- B. One freestanding sign only for each lot, provided that the foremost building on the lot is set back from the front lot line a minimum of 10 feet, shall be permitted, subject to the following criteria:
 - (1) Sign area may be one square foot for each five feet of lot line front, provided that the total area of each surface shall not exceed 60 square feet and a total of all surfaces shall not exceed 120 square feet.
 - (2) The frontmost edge of the sign shall be set back from the front lot line a minimum of three feet in a B-1 District only.
 - (3) Signs within 25 feet of a street or way line shall have either the uppermost edge of the sign no more than three feet above grade or the lowermost edge of the sign no less than eight feet above grade and the uppermost edge not to exceed 25 feet above grade.
- C. Wall or freestanding signs may use a portion of the permitted sign area for interchangeable characters, provided that such area shall not exceed three square feet plus an additional 10% of the sign face area.
- D. Signs shall be set back from any adjoining residential district lot line at least the front yard distance required in the adjoining residential district.
- E. Any lights used for illumination shall be so arranged as to reflect light away from an adjoining residential district.
- F. Any proposed signage not in conformance with the regulations set forth in this section shall be subject to site plan review under Article XXVA. [Added 4-2-2018 by Ord. No. 17-127]

§ 120-64.4. Signs in industrial districts. [Amended May 1987 ATM by Art. 50, approved 8-27-1987; May 1990 STM by Art. 2, approved 8-29-1990]

Signs identifying and/or advertising conforming uses located on the premises are allowed with the following conditions:

- A. Wall signs parallel to an exterior wall of a building for each place of business shall be permitted, provided that the same shall not project beyond the face of any other wall

nor project above the roofline of said wall nor project more than 18 inches from said wall, shall not exceed one square foot for each horizontal foot of building frontage of each said business, and further provided that the area of said signs for each business shall not exceed 75 square feet.

- B. One freestanding sign only for each lot shall be permitted, subject to the following criteria:
 - (1) Signs shall be set back a minimum of 10 feet from any street, way, driveway, parking area and loading area.
 - (2) Sign area shall not exceed 20 square feet per side, with a total surface area of all sides not to exceed 40 square feet.
 - (3) The uppermost edge of said sign shall not exceed six feet above grade.
- C. One freestanding directory sign is permitted, provided that there is no other freestanding sign on the lot, at the principal entrance to a group of buildings or building in which various businesses are conducted, listing only the name and location of said building, and provided further that said listing shall be no larger than three square feet; and in addition to said sign listings there shall be permitted, and as part of the freestanding sign, a sign identifying the name of the industrial park or building, not to exceed 30 square feet. The total sign area of each surface shall not exceed 100 square feet, and the total area of all surfaces shall not exceed 200 square feet. The height of said sign shall not exceed 25 feet above grade, and the lower edge of the sign shall be no less than eight feet above grade if said sign is within 25 feet of a street or way line.
- D. Signs shall be set back from any adjoining residential district lot line at least the front yard distance required in the adjoining residential district.
- E. Any lights used for illumination shall be so arranged as to reflect light away from adjoining residential districts.

§ 120-64.5. Regulations applicable in all districts.

The following provisions shall apply in all districts:

- A. Churches and nonprofit institutions may be permitted either a maximum of two wall signs, any portion of which may be used as an announcement or bulletin board, provided that the total area of all signs shall not exceed 20 square feet, or one freestanding sign, for which the area of each surface shall not exceed 40 square feet and the total of all surfaces shall not exceed 40 square feet.
- B. A permitted business use may use any portion of its permitted sign area for a clock, thermometer and/or calendar, which changes on a synchronized basis.

§ 120-64.6. Prohibited signs.

In the interest of public safety, the following are not permitted:

- A. Any sign or advertising device with visible moving or movable parts (except as provided in this bylaw) or with flashing, animated or intermittent illumination or which is noise-making. Exempted from this section is any automated, illuminated barber pole, used in advertising the licensed profession of barbering, which does not exceed 39 inches in height and 10 1/2 inches in width and is attached to the building. [Amended September 1996 STM by Art. 22, approved 1-2-1997]
- B. Any colored sign so located as to attract attention from or obscure a traffic control light so as to reduce its visibility and effect.
- C. Any sign within 25 feet of an intersection of two streets so placed in any way as to obstruct clear vision in any direction.
- D. Any device illuminating a sign which directs light toward a public way in such a manner as to cast its beam in the eyes of oncoming motorists or pedestrians.
- E. Any sign which contains a registered trademark or portrays a specific commodity for sale, unless said trademark or commodity is the principal activity conducted therein.

§ 120-64.7. Billboards. [Amended 4-2-2018 by Ord. No. 17-127; 4-4-2022 by Order No. 22-001²⁷]

Billboards of any kind are prohibited.

§ 120-64.7.1. Billboard Relocation Overlay District. [Added 4-2-2018 by Ord. No. 17-127; amended 1-4-2021 by Ord. No. 20-100²⁸; 1-19-2021 by Ord. No. 20-117²⁹; 4-4-2022 by Order No. 22-001³⁰]

- A. (Reserved)
- B. (Reserved)
- C. (Reserved)
- D. (Reserved)
- E. Construction of billboards and related facilities and structures within the Billboard Relocation Overlay District shall be subject to a special permitting process by the Board of Zoning Appeals. A decision shall not be rendered on an application for a

27. Editor's Note: This order was adopted by Town Council 2-22-2022 and vetoed by the Mayor 3-11-2022. Town Council voted to override the veto 4-4-2022.

28. Editor's Note: This ordinance was adopted by Town Council 12-7-2020 and vetoed by the Mayor 12-17-2020. Town Council voted to override the veto 1-4-2021.

29. Editor's Note: This ordinance was adopted by Town Council 12-21-2020 and vetoed by the Mayor 1-4-2021. Town Council voted to override the veto 1-19-2021.

30. Editor's Note: This order was adopted by Town Council 2-22-2022 and vetoed by the Mayor 3-11-2022. Town Council voted to override the veto 4-4-2022.

special permit until the Board of Zoning Appeals has made its findings. Said finding shall include but not limited to the following:

- (1) Demonstrate compliance with the regulations of the Office of Outdoor Advertising.
- (2) Demonstrate that no residentially zoned property or preexisting nonconforming property or other property used for residential purposes, excluding hotels or motels, is within a 1,000-foot radius of the proposed location.
- (3) Demonstrate that the proposed location does not adversely interfere with the use of adjacent properties, including, but not limited to, increasing noise or vibration, casting a shadow on, or causing a flicker on adjacent properties.
- (4) Demonstrate that the proposed billboard is in harmony with or suitable for the surrounding area and would not do significant damage to the visual environment. In making the determination, the special permit granting authority may consider, among other factors, health, safety, general welfare of the public, the scenic beauty of the area, the physical, environmental, cultural, historical or architectural characteristics of the location and area, proximity of the proposed billboard to schools, or places of worship or open space, architectural characteristics of the location and area, the total maximum height of electronic billboard must not exceed 35 feet from existing ground elevation, with the board maximum dimensions not to exceed 10.5 inches tall by 36 inches wide, and the number of signs on the premises and in the area where the billboard is to be located.
- (5) No flashing lighting shall be allowed. Flashing shall be defined as changing natural or artificial light or color effects by any means except as may occur when panels or messages change on electronic/digital billboards.
- (6) Content displayed on billboards cannot be sexually graphic, tobacco, alcohol or marijuana related, including paraphernalia.
- (7) The Board of Zoning Appeals shall determine the number of annual hours the billboard shall devote to public service announcements during a calendar year.
- (8) Hours of operation cannot occur outside of the hours of 7:00 a.m. to 10:00 p.m.
- (9) Financial or other compensation to the Town, including but not limited to removal of existing nonconforming billboards, to mitigate the impact of the proposed billboard(s) on the Town, in a form and/or amount identified in an agreement approved by the Mayor and the Town Solicitor.
- (10) All electronic billboards must have light blocking/Siteline technology installed as approved by the Board of Zoning Appeals.
- (11) Proponent must provide property owners located within 2,000 feet of proposed billboard structures regarding a public hearing for any new installation and/or modifications to existing billboards. This notification will be sent via certified mail and will specify the address of the proposed/modified billboard with a GIS map of the location.

F. A moratorium shall be on effect for the duration of one year regarding all electronic billboard issuances of new permits. This moratorium may be lifted only if Cove Outdoor, LLC, or its successor, fulfills all obligations included in the "Remediation Agreement for the Neighbors Near the 611 Pleasant Street Digital Billboard" dated December 18, 2019.

§ 120-64.8. Nonconforming signs.

Signs or other advertising devices legally erected may continue to be maintained; provided, however, that no such sign or other advertising device shall be permitted if it is enlarged, reworded (other than in the case of permitted signs with changing messages), redesigned or altered in any way, including repainting in a different color, except to conform to the requirements of this bylaw, and provided further that any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this bylaw. Any exemption provided in Article XVI shall terminate with respect to any sign or other advertising device which:

- A. Shall have been abandoned;
- B. Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on at the particular premises; or
- C. Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Inspector of Buildings.

§ 120-64.9. Power of Inspector of Buildings.

- A. Any signs permitted by the zoning laws shall be erected to the satisfaction of the Inspector of Buildings.
- B. In addition to signs otherwise permitted, directional signs for the purpose of maintaining traffic control for public safety are permitted to be erected or placed at

designated locations with the approval of the Inspector of Buildings. The size of such signs shall not exceed 4 1/2 square feet each.

§ 120-65. through § 120-68. (Reserved)

ARTICLE XVII
Off-Street Parking

§ 120-69. Off-street parking required; plan; exception.

No land shall be used or occupied and no structure shall be erected or used unless the off-street parking spaces as hereinafter required are provided. No application for a permit for erection of a new structure or for the development of a land use shall be approved unless it includes a plan for off-street parking facilities and is maintained thereafter in accordance with the requirements of this section, except that such parking spaces are not required for any structure or use existing at the time of enactment of this bylaw; provided, however, that parking spaces as specified in this article shall be provided for any enlargement or alteration to any such existing structure or use, and provided further that the increase is greater than 15%.

§ 120-70. Location requirements. [Amended April 1971 ATM by Art. 47, approved 8-24-1971]

The off-street parking spaces required by this section shall be as follows:

- A. On the same lot as the structure or use they are intended to serve; except where such off-street parking spaces cannot be reasonably provided on the same lot in the Neighborhood Center District NCD, Business District B-2 and the Industrial District I-2, the Board of Zoning Appeals may by special permit grant exceptions to allow provisions of the required spaces on a separate lot or lots within a radius of 600 feet, measured from the lot line of the principal use. [Amended May 1983 ATM by Art. 48, approved 8-26-1983; May 1989 ATM by Art. 49, approved 7-28-1989]
- B. When a required off-street parking space is in the form of a parking lot or other open air parking space in: [Amended May 1990 STM by Art. 1, approved 8-29-1990]
 - (1) Resident Districts R-1, R-2, R-3 and R-4, all required spaces for nonresidential uses shall be located behind the minimum required front setback. [Amended May 1998 ATM by Art. 42, approved 10-23-1998]
 - (2) Industrial District I-1, it shall be confined to side and rear yard areas.
- C. When a required off-street parking space is in the form of a parking lot or other open-air parking space in Business Districts B-1, HT and MS, it shall not be located within less than 15 feet of a street line. [Amended May 1990 STM by Arts. 2 and 3, approved 8-29-1990]
- D. In the event that off-street parking spaces cannot be reasonably provided on the same lot within the Neighborhood Center District to accommodate nonresidential uses only,

the Board of Zoning Appeals may grant exceptions to allow provision for counting on-street parking spaces within a radius of 150 feet, provided that it is demonstrated that the additional demand for such spaces can be reasonably met without placing an undue burden on existing facilities already relying on such spaces. [Added May 1983 ATM by Art. 48, approved 8-26-1983]

§ 120-71. Dimensional requirements. [Amended May 1987 ATM by Art. 51, approved 8-27-1987]

- A. Parking spaces. Each individual parking space shall have minimum dimensions of nine feet by 18 feet.
- B. Driveway entrances. Driveway entrances in all districts, except the Low Density Residential (R-1) District, shall be a minimum of 12 feet in width for one-way traffic and 20 feet in width for two-way traffic.
- C. Aisle widths. Aisle widths and turning spaces shall be adequate to ensure safe and proper operation and shall be established by recognized architectural/engineering standards as deemed appropriate by the Inspector of Buildings.

§ 120-72. Access to street required. [Amended May 1987 ATM by Art. 51, approved 8-27-1987]

Each parking space shall have vehicular access to a street without the need of moving any other vehicle. Driveways and aisles in all districts, except Low Density Residential (R-1), shall be arranged so that vehicles will leave and enter the street with a forward motion.

§ 120-73. Construction requirements.

Every parcel of land which, after the effective date of this bylaw, is changed to a parking area for more than three vehicles, or to a drive-in business or motor vehicle sales or service establishment, shall be developed as follows, subject to the approval of the plans therefor by the Inspector of Buildings:

- A. Such area, where subject to wheeled traffic, shall be smoothly graded, properly drained and treated with bituminous or other all-weather hard surface and shall have appropriate bumper or wheel guards where needed.
- B. Where such area abuts a residential district, it shall not be located within less than five feet of the lot line, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five feet shall be erected and maintained between such area and the property in the residential district.
- C. Any light used to illuminate said parking area shall be so arranged as to reflect light away from adjoining premises and streets.

§ 120-74. Minimum required spaces.

Off-street parking spaces shall be provided in accordance with the following minimum requirements:

- A. Bowling alleys: three off-street parking spaces for each lane.
- B. Dwellings, single- and two-family: two spaces for each dwelling unit. **[Amended May 1989 ATM by Art. 52, approved 7-28-1989]**
- C. Dwellings, multiple: two spaces for each dwelling unit. **[Amended May 1997 ATM by Art. 41, approved 8-11-1997]**
- D. Eating and drinking establishments: one space for each three seats or two spaces for each 100 square feet of gross floor area, excluding basement storage area, as deemed necessary by the Inspector of Buildings. **[Amended May 1997 ATM by Art. 41, approved 8-11-1997; 4-2-2018 by Ord. No. 17-127]**
- E. Funeral homes: one space for each company vehicle, plus one space for each three seats in meeting rooms.
- F. Hospitals: one space per bed plus 1/2 space for each 800 square feet of gross floor area, excluding basement storage area. **[Amended May 1990 STM by Art. 3, approved 8-29-1990]**
- G. Motels, hotels and lodging houses: one space for each guest room or dwelling unit.

- H. Marinas: one space for each boat mooring and/or berthing space.
- I. Medical, dental or professional building: one space for each 100 square feet of gross floor area, excluding basement storage area. [Amended May 1989 ATM by Art. 52, approved 7-28-1989; May 1997 ATM by Art. 41, approved 8-11-1997]
- J. Nursing homes and rest homes: one space for each two beds. [Amended May 1997 ATM by Art. 41, approved 8-11-1997]
- K. Offices: one space for each 200 square feet of gross floor area, excluding basement storage area. [Amended May 1989 ATM by Art. 52, approved 7-28-1989; May 1997 ATM by Art. 41, approved 8-11-1997]
- L. Retail business and service establishments: one space for each 200 square feet of gross floor area on the first floor of a building, and one space for each 400 square feet of gross floor area thereafter for all floors used for office, retail or service businesses, excluding basement storage area.
- M. Schools; day-care centers. [Amended May 1997 ATM by Art. 41, approved 8-11-1997]
 - (1) Schools: one space for each employee, including teachers and administrators, plus sufficient off-street space for safe and convenient loading and unloading of clients.
 - (2) Day-care centers: one space for each employee, plus one space for each six clients of the licensed capacity, not including any shared parking spaces, plus sufficient off-street space for safe and convenient loading and unloading of clients. Off-street space for loading and unloading shall consist of an additional minimum of one space for each 12 clients of the licensed capacity. [Amended May 1998 ATM by Art. 42, approved 10-23-1998]
- N. Theaters, auditoriums, assembly halls and other places of assembly: one space for each five seats or for each 100 square feet of auditorium area, if there are not fixed seats.
- O. Wholesale establishments and industrial uses: one space for each two employees employed, plus space for every company-owned and -operated vehicle, plus spaces for customers' vehicles as determined appropriate by the Inspector of Buildings.
- P. Joint facilities. Accessory off-street parking for business and industrial uses may be provided in joint facilities designed to serve two or more buildings or uses, provided that the joint facilities shall not be less than the total required under the provisions of this bylaw.
- Q. Mixed uses in a single building. Where a building has a mixture of uses for which accessory off-street parking space is required, spaces required will be the sum of the requirements of the various individual uses.
- R. Unlisted requirements. Reasonable off-street parking requirements for buildings and uses not listed in this section shall be determined in each case by the Inspector of Buildings.

§ 120-75. Issuance of certificates of occupancy.

No certificate of occupancy shall be issued unless required parking facilities shall have been provided in accordance with those designated and approved on the approved plan.

**ARTICLE XVIII
Off-Street Loading****§ 120-76. Off-street loading spaces required. [Amended May 1992 ATM by Art. 38, approved 10-1-1992]**

No land shall be used or occupied and no structure shall be erected or used for nonresidential purposes in any use district requiring the loading and unloading of goods unless off-street loading spaces are provided. Further, for each nonresidential use or structure with a gross floor area of 30,000 square feet or less in which commodities are sold, displayed, serviced, repaired, altered or fabricated as the principal use of the parcel or lot, one off-street loading bay shall be provided, with an additional loading bay for each additional 50,000 square feet of floor area, except that additional off-street loading bays shall be required by the Inspector of Buildings when necessary to provide adequate area for off-street loading.

§ 120-77. Off-street loading bay dimensions. [Amended May 1992 ATM by Art. 38, approved 10-1-1992]

Each such loading bay shall have minimum dimensions of 45 feet by 14 feet and 14 feet in height and may be located either within a building or outside and adjoining an opening in the building. Every part of such off-street loading bay shall be located completely off the street. In case trucks, trailers or other vehicles larger than the dimensions of the minimum requirements habitually service the building in question, additional space shall be provided so that such vehicles park or stand completely off the street.

§ 120-78. Construction requirements. [Amended May 1992 ATM by Art. 38, approved 10-1-1992]

Each loading bay shall be developed as follows:

- A. Vehicles using the loading bay shall have vehicular access to a street, driveway or vehicular aisle without the need of moving any other vehicle, or without obstructing any driveway or vehicular aisle.
- B. Such area, where subject to wheeled traffic, shall be smoothly graded, properly drained and treated with bituminous or other all-weather hard surface.
- C. Where such area abuts a residential district, it shall not be located within five feet of the lot line, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five feet shall be erected and maintained between such area and the property in the residential district.
- D. Any light used to illuminate said loading bay shall be so arranged as to reflect light away from adjoining premises and streets.

§ 120-79. Filing of plan required before permit issuance.

There shall be filed with every application for a construction permit a plan showing provisions for any off-street loading bays and use before the issuance of any building permit.

ARTICLE XIX
Earth Removal

§ 120-80. Removal outside of Town prohibited.

The removal of sod and loam from any land in the Town to any location outside the Town is hereby prohibited under all circumstances.

§ 120-81. Permit required.

The removal of soil, loam, sand, gravel, quarry stone or other earth material from any parcel of land by any person, firm or corporation shall be allowed only under permit from the Board of Zoning Appeals and subject to restrictive covenants of the Board. However, the Inspector

of Buildings, without reference to the Board of Zoning Appeals, may issue permits for the removal from the site of earth and may require a suitable bond, if deemed necessary, for the following purposes: wherein the amount of material to be removed is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building or road or other facility being built in accordance with a permit issued or in accordance with an approved plan, provided that there is reasonable assurance that the construction will be completed.

§ 120-82. Application requirements.

Each application for a permit for earth-material removal shall be accompanied by a plan, submitted in triplicate to the Inspector of Buildings and a copy to the Planning Board at least 14 days prior to the date of the public hearing, prepared at the expense of the applicant by a registered land surveyor or registered professional engineer, showing:

- A. Specifically the boundaries and dimensions of the premises.
- B. The location and dimensions of the area from which the proposed removal of materials is to take place.
- C. Topography by five-foot contours at the area to be excavated and up to at least 100 feet beyond the perimeter of the area included and along all property lines.
- D. Names and boundaries of all abutters.
- E. At least three permanent benchmarks with elevations marked thereon, on Town of Weymouth datum.
- F. Five-foot contours as proposed after completion of the operation.
- G. Topographical detail showing the physical character of the premises, including natural drainage and direction of water flow.
- H. Other information necessary to indicate the complete physical characteristics of the proposed operation which may be indicated by the rules of the Board of Zoning Appeals.

§ 120-83. Conditions of permit.

In granting a permit, the Board of Zoning Appeals shall impose reasonable conditions specifically designed to safeguard the neighborhood and the Town, which may include but not be limited to conditions as to:

- A. Method of removal.
- B. Type and location of temporary structures, fences and barriers.
- C. Hours of operation.
- D. Routes for transporting the material through the Town.
- E. Area and depth of excavation.

- F. Distance of excavation to street and property lines.
- G. Steepness of slopes excavated.
- H. Reestablishment of ground levels and grades.
- I. Provision of temporary and permanent drainage.
- J. Disposition of boulders and tree stumps.
- K. Provisions for dust control, which may include paving.
- L. Replacement of loam over the area of removal.
- M. Planting of the area to suitable cover, including shrubs and trees.
- N. Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by the removal activity.

§ 120-84. Performance bond.

The Board shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reasons for its findings.

§ 120-85. Expiration of permit; renewals.

Any permit issued shall automatically expire upon the completion of the earth-removal project for which it was issued or at such other time as may be specified in said permit. A permit may be granted by the Board of Zoning Appeals with the provision that it may be renewed for one year, without a hearing, if the Inspector of Buildings finds that all conditions then applicable have been complied with and that the work has been carried on continuously and in good faith.

§ 120-86. Existing operations.

Earth-removal activities in lawful operation on any parcel of land at the time this article is adopted may continue, unless and until abandoned for more than 12 consecutive months, with the following conditions:

- A. Removal operations shall not be extended beyond the property lines of the particular parcel upon which such operations are in progress at the time of the adoption of this article.
- B. At no time of year shall the premises be maintained at levels such that ground- or surface water will accumulate. Such areas shall be either filled or drained.
- C. The depth of excavation shall not be extended below the grade of the lowest point excavated on the effective date of this article.

- D. The total area of excavation shall not be increased by more than 50% over its area on said date.
- E. Removal operations shall be limited to the hours of 7:00 a.m. to 5:00 p.m.

§ 120-87. Review of progress of work; notice of violations; penalties.

- A. The Inspector of Buildings shall review the progress of the work from time to time to assure proper conduct.
- B. The Inspector of Buildings, if he concludes that there has been a violation of this article, shall send to the offender and to the owner of record of the premises, or deliver, such notice of violation and, if applicable, a notice ordering the cessation of the improper activities. If the offender holds a permit issued under this article, such permit may be revoked.
- C. If the permit holder or other offender persists in such violation, the Inspector of Buildings shall seek the imposition of the penalties authorized by MGL c. 40, § 21, Paragraph 18, through appropriate legal action, and the penalty for removing earth in violation of this article shall be a fine of not more than \$50 for the first offense after such warning and not more than \$50 for any subsequent offense. Each day that willful violation continues shall constitute a separate offense.

ARTICLE XX
Earth Filling

[Added April 1974 ATM by Art. 32, approved 5-24-1974]

§ 120-88. Intent.

The intent of this article is to prevent cumulative damage to landscape and topography and to preserve statistical data which may be useful to the various Town agencies in the performance of their official duties and also to establish procedural steps and guidelines for the filling of land.

§ 120-89. Permit required.

No lot or parcel of land shall be filled with any fill material unless a permit is issued by the office of the Inspector of Buildings, except that no permit shall be required:

- A. For filling lots or parcels of land, provided that the total volume of fill does not exceed 50 cubic yards, or for minor filling done in connection with or incidental to the construction of walks, driveways, walls and landscaping.
- B. Where the filling is necessary or incidental to or in connection with the construction of roads, structures or other improvements or facilities being built in accordance with a lawful permit or in accordance with an approved definitive subdivision plan, provided that there is reasonable assurance that the fill portion will be satisfactorily completed.

§ 120-90. Application requirements.

Each application for a permit required under this article shall be made to the office of the Inspector of Buildings on forms supplied by said office and shall be accompanied by a plan and five copies thereof prepared at the expense of the applicant by a registered land surveyor or a registered professional. One copy of said plan shall be sent to the Board of Public Works, the Conservation Commission, the Board of Health and the Planning Board, for their permanent records, and each of said boards may, within 20 days of said filing, forward to the office of the Inspector of Buildings, for his consideration, their observations, comments and recommendations. Said plan shall show:

- A. Specifically the boundaries and dimensions of the lot or parcel to be filled.
- B. The location and dimensions of the area to be filled.
- C. Topography by two-foot contours of the area to be filled to a distance not less than 100 feet beyond the perimeter of the area to be filled and along all property lines.
- D. Name and boundaries of all abutters.
- E. At least three permanent bench marks with elevations marked thereon, on Town of Weymouth datum.
- F. Two-foot contours as proposed at completion of fill.
- G. Topographical detail showing the physical character of the area to be filled and at least 100 feet beyond the perimeter thereof, including natural drainage and direction of water flow and all significant and outstanding features such as rock formations, ledge, peat, marsh, etc.

§ 120-91. Conditions of permit.

Permits will be granted subject to the following conditions, which will be imposed to safeguard the neighborhood and the Town during the fill operation:

- A. Method of fill.
- B. Filling shall be limited to the hours between 7:00 a.m. and 6:00 p.m.
- C. Provisions for dust control, which may include paving when conditions reasonably indicate.
- D. Planting of the area with ground cover suitable or indigenous to the area, including shrubs and trees.
- E. Fill material shall be some form of earth or earth products. All other material shall be placed in accordance with proper sanitary landfill procedures; provided, however, that no garbage, refuse, industrial waste, toxic materials, flammable liquids or gases, highly explosive materials and junk shall be used.
- F. If the topographical features and/or geological conditions reasonably indicate, borings and test pits may be required.

G. Cleaning, repair and/or resurfacing of streets which have been adversely affected by filling activity.

§ 120-92. Manner of filling; slope stabilization.

Filling shall be done in such a way that the resulting contours follow smooth, natural curves that conform as nearly as possible to the curves of the surrounding landscape. Upon completion, all slopes shall be appropriately stabilized to prevent erosion and excessive water runoff on abutting lots or abrupt changes in topography near lot lines and to prevent excessive water accumulation.

§ 120-93. Expiration of permit.

Completion of all work under a permit shall be completed within six months of the issuance thereof; provided, however, that for good cause the time may be extended, but not for more than three successive six-month periods.

§ 120-94. Applicability of other laws and regulations.

Nothing in this article shall be construed as permitting the nonconformance with or in violation of any rule or regulation or code of any other Town board or department. All permits issued under this article are issued conditionally for those portions of the premises to be filled which by law come within the provisions of the Wetlands Act, so-called. For those lots or parcels for which filling may come within the provisions of said Wetlands Act, permits under this article shall be issued conditioned on compliance therewith. It is recommended that the Board of Zoning Appeals, Planning Board and Conservation Commission, in granting of relief or permits, provide as a condition thereto compliance with the applicable provisions of this article.

§ 120-95. Violations and penalties.

Failure to complete the work within the time and in the manner required by the terms and conditions of a permit and within the time permitted shall be deemed a violation of this bylaw and be subject to all the provisions of §§ 120-111 and 120-112 of this bylaw.

§ 120-96. Notice of issuance of permit.

No work shall commence on a permit under this article until a notice of the issuance of the same has been recorded at the Norfolk Registry of Deeds or Registry District of the Land Court and evidence of said recording is filed with the Inspector of Buildings. Said notice shall be on a form supplied by the Inspector of Buildings and executed and acknowledged by the owners of record of the land included in said permit. The notice shall contain the names of the record owners, description of said land, appropriate references to title and such other information which may be necessary for recording.

§ 120-97. Fee.

The fee for a permit under this article shall be \$25.

ARTICLE XXI Supplementary Regulations

§ 120-98. Exterior lighting.

Exterior lighting shall be shielded or reflected so that the light source is not visible from any residential district. Exterior lighting, the source of which would be visible from any public street, shall have its source reflected or retracted so as to direct and distribute the light to minimize glare.

§ 120-99. Vehicles, improper storage. [Added May 1999 ATM by Art. 20, approved 8-19-1999]

No person in charge or control of any property in the Town, whether an owner, occupant, lessee or otherwise, shall allow any partially dismantled, wrecked, junked, nonoperative or discarded vehicle to remain on such property longer than 30 days after written notice to the owner has been given by the Town of Weymouth, except:

- A. A vehicle which is in an enclosed building or in an area unexposed to the view of the public or any abutter.
- B. Any vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise.
- C. A vehicle in an appropriate storage place or depository maintained by the Town or with the consent of the Town.
- D. A vehicle upon property covered by a Class III license, duly in effect under the Code of the Town of Weymouth, Chapter 9, Section 9-500, Used Car Dealers.

§ 120-100. Obstructions to air navigation prohibited.

No structure shall be erected or altered nor any tree permitted to grow which would create a hazard to air navigation. In determining whether such a hazard exists, the Inspector of Buildings or the Board of Zoning Appeals, as the case may be, shall have reference to, but not exclusively, criteria used by the South Weymouth Naval Air Station and/or Massachusetts Aeronautics Commission; nor shall any use be permitted which creates electrical interference with radio aids or communications between the air station and aircraft, making it difficult for pilots to distinguish between air station light and others. Permits for high structures may require the applicant, at its own expense, to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of any airport hazard.

§ 120-101. Service stations, repair garages and car washes. [Amended May 1989 ATM by Art. 47, approved 7-28-1989]

Any service station, repair garage or car wash in any district to be approved by the Board of Selectmen shall conform at least to the following regulations. When the intensity regulations for any district in which a service station is located are more restrictive than the regulations contained hereinafter, all service stations or repair garages shall conform to the more restrictive dimensional requirements.

- A. Frontage and area. Every service station or car wash shall have a minimum frontage of 150 feet and a minimum area of 20,000 square feet.
- B. Setbacks. Every structure erected for use as a service station or car wash shall have a minimum setback from the street line of 40 feet and a minimum setback from all property lines of 10 feet. Pump islands shall be permitted in front yards and set back a minimum of 15 feet from all property lines.
- C. All vehicle service areas shall be constructed to conform to the following standards:
 - (1) Suitable separation shall be made between the pedestrian sidewalk and the vehicular parking or moving area with the use of appropriate bumper or wheel guards or traffic islands.
 - (2) The entire area used for vehicle service shall be paved, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
 - (3) Hydraulic hoist, lubrication, greasing, washing, and repair equipment shall be entirely enclosed within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting, may be carried on within the premises. No open pits will be permitted.
 - (4) The minimum widths of all driveways at the sidewalk shall be 30 feet.
 - (5) The distance of any driveway from any residential property line shall be at least 20 feet and in no case less than 10 feet.
 - (6) A wall or evergreen screening or tight fence five feet high shall be erected along all property lines abutting a residential use.

§ 120-102. Concealing of storage areas.

All parking and outdoor storage areas of facilities for fuel, materials and products shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than five feet high to conceal such areas or facilities.

§ 120-102.1. Screening of dumpsters. [Added 4-2-2018 by Ord. No. 17-127]

All dumpsters must be screened with opaque fencing on all sides and accessed by a closable, secured gate.

§ 120-103. Swimming pools.

A private swimming pool is hereby declared to be an accessory use in a residential district and shall conform to the appropriate side, front and rear yard requirements of the particular residential district in which it is located; provided, however, that any filter and pump shall be

located not less than 15 feet from the side yard line. Pools shall be surrounded by a permanent enclosure not less than four feet in height.

§ 120-104. Temporary uses.

A temporary building or yard for construction materials and/or equipment and a temporary office, if in connection with and incidental and necessary to a real estate development, shall be permitted in any district, provided that any building permit issued for any such use shall be valid for not more than six months and may not be extended more than three consecutive times.

§ 120-105. Trailers.

No person shall occupy a trailer for living or business purposes except as a permitted temporary use under § 120-104 incidental to construction on or development of the premises on which the trailer is located.

§ 120-106. Self-service gasoline stations prohibited. [Added January 1977 STM by Art. 1, approved 4-26-1977]

No self-service gas stations shall be permitted in the Town of Weymouth.

§ 120-106.1. Wind energy conversion systems. [Added June 1982 STM by Art. 5, approved 11-9-1982]

A. Intent. The purpose of this section is to protect the health and safety of occupants, individuals on abutting property and the general public; and to reduce adverse environmental effects by regulating the siting of wind energy conversion systems.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

WIND ENERGY CONVERSION SYSTEM — A machine which removes energy from the wind and converts it to mechanical or electrical energy.

C. Special permit required. Wind energy conversion systems may be allowed as an accessory use in all zoning districts as a special permit granted by the Board of Zoning Appeals, subject to the conditions and requirements of this section (§ 120-106.1) and to the conditions and requirements of Article XXV.

D. Plan criteria. The special permit granting authority may require such information, data and testing to be performed at the applicant's expense in order to achieve a finding of compliance with the intent and standards. At a minimum, the following information shall be submitted with each special permit and site plan review application for a wind conversion system:

- (1) A plan of land showing:
 - (a) Property lines.
 - (b) Proposed location of tower on site.
 - (c) Location of all existing structures and aboveground utility lines within a radius equal to the height of the tower.
 - (d) Location of major features of the land, including: trees, outcroppings, walls and all topographical changes over 20 feet in height within a radius of 300 feet of the proposed tower site.
- (2) An environmental assessment relative to the machine design, function and maintenance in relation to the terrain characteristics, wind turbulence, wind shear, lightning, salt spray and other hazards which the special permit granting authority deems necessary for a proper and safe operating wind energy conversion system.

E. Standards for wind energy conversion systems. The following criteria shall apply to all wind energy conversion systems.

- (1) Access to the tower shall be limited by a permanent enclosure not less than six feet in height with a locking portal or by removing climbing apparatus on the tower to a height of 12 feet.
- (2) Specifications shall be submitted with all applications documenting that the system will not produce interference with television reception within 300 feet.
- (3) Specifications shall be submitted with all applications documenting that the noise levels produced by wind energy conversion systems will not exceed ambient noise levels by more than five dB(A) when measured at a point along the property line closest to the tower.
- (4) Energy produced shall be primarily for use of the occupants of the property.
- (5) Tower height, where applicable, shall conform to federal aviation regulations.
- (6) Specifications shall be submitted which document that wind energy conversion systems do not produce any low-frequency sounds or vibrations affecting people. Maintenance requirements necessary to prevent such sounds shall also be detailed.
- (7) Redundant overspeed controls shall be required.

F. Special permit conditions. In granting a special permit for a wind energy conversion system, the special permit granting authority shall have the power to impose additional standards, such as height and setback requirements, as it deems necessary to ensure compliance with the intent of this bylaw.

§ 120-106.2. Wireless communication equipment. [Added November 1997 STM by Art. 36, approved 2-26-1998]

- A. Purpose. The purpose of this bylaw includes minimizing adverse impacts of wireless communication facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; minimizing the overall number and height of such facilities; and promoting shared use of existing facilities to reduce the need for new facilities.
- B. Wireless communication equipment, as defined in § 120-6, shall be permitted in the following districts as noted below, unless specifically prohibited:
 - (1) Wireless communication, freestanding structure, as a special permit from the Board of Zoning Appeals in Districts I-1, I-2, PIP, POP and POS.
 - (2) Wireless communication, building-mounted equipment, as an accessory use by site plan review in Districts R-3, R-4, B-1, B-2, HT, MS, I-1, I-2, PIP, POP and POS.
 - (3) Wireless communication, indoor equipment, as an accessory use permitted in Districts R-3, R-4, B-1, B-2, HT, MS, I-1, I-2, PIP, POP and POS.
 - (4) Wireless communication, accessory equipment, as an accessory use by site plan review in Districts R-3, R-4, B-1, B-2, HT, MS, I-1, I-2, PIP, POP and POS.
- C. The following information shall be supplemental to normal application criteria and submitted with each special permit and site plan review application for wireless communication equipment:
 - (1) A locus plan at a scale of one inch equals 200 feet which shall show all property lines, the exact location of the proposed structures, streets, landscape features, residential dwellings and all buildings within 300 feet of the facility.
 - (2) A color photograph or rendition of the proposed monopole with its antenna and/or panels. For satellite dishes or residential antennas, a color photograph or rendition illustrating the dish at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole dish or antenna from the nearest street or streets.
 - (3) The following information prepared by one or more professional engineers:
 - (a) A description of the monopole and the technical, economic and other reasons for the proposed location, height and design.
 - (b) Confirmation that the monopole complies with all applicable federal and state standards.
 - (c) A description of the capacity of the monopole, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - (4) A signed affidavit by the applicant that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC),

Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

- (5) A signed affidavit by the applicant listing all wireless communication equipment within a one-half-mile radius and the availability of space at each location.

D. The following general requirements shall apply to all wireless communication equipment:

- (1) No wireless communication facility, which shall include monopoles, satellite dishes over three feet in diameter or antennas, shall be erected or installed except in compliance with the provisions of § 120-106.2B.
- (2) Any proposed extension in the height or the replacement of a facility shall be subject to a new application for a site plan review or special permit, as applicable in § 120-106.2B.
- (3) The Inspector of Buildings shall review petitions for the addition of cells, antennas or panels to any lawfully permitted existing wireless communication monopole or tower and shall allow such without a new hearing, provided that such additions comply with the intent and criteria of § 120-106.2 and the conditions of approval of the special permit.
- (4) Only freestanding monopoles, with associated antennas and/or panels, are allowed. Lattice-style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
- (5) Wireless communication monopoles and associated facilities shall be suitably screened from abutters and residential neighborhoods.
- (6) Structures shall be removed within one year of cessation of use. If applicable, annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Inspector of Buildings by the special permit holder.

E. The following design criteria shall be used when preparing plans for the siting and construction of all wireless communication facilities:

- (1) All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. All monopoles shall be set back from R-1, R-2 and NCD Zoning District boundaries by a distance at least equal to two times the height of the monopole. No monopole shall be placed closer than 500 feet to another freestanding wireless communication structure.
- (2) No monopole or attached accessory antenna on a monopole shall exceed 120 feet in height as measured from natural ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings. Any monopole in excess of that permitted in Table 1, Schedule of District Regulations, included as an attachment to this chapter, will require a variance from the Board of Zoning Appeals.

- (3) Antennas, dishes and all other equipment located on any structure shall not exceed 10 feet above the height of the building, as defined in § 120-6.
- (4) All wireless communication facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.
- (5) Satellite dishes and/or antennas shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Freestanding dishes or antennas shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
- (6) Wireless communication facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities that will be required to be located within the Town.
- (7) Fencing shall be provided to control access to freestanding wireless communication facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire.
- (8) All freestanding wireless communication structures shall have no signs except for directional signs, "no trespassing" signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform with Article XVI, Signs, of the Zoning Bylaw.
- (9) Night lighting of towers shall be prohibited.
- (10) There shall be a minimum of one parking space for each facility.

F. The following types of wireless communication towers and equipment are exempt from the provisions of this section:

- (1) Amateur radio tower. An "amateur radio tower" is defined as a tower used solely in accordance with the terms of an amateur radio service license(s) issued by the Federal Communications Commission (FCC) to members of the family residing on the premises and not used or licensed for any commercial purpose.
- (2) Installation of any antenna, panels or similar equipment on a lawfully permitted freestanding wireless communication tower, provided that all such additional equipment conforms to the conditions of the existing permit.
- (3) A tower erected to serve communication between farm vehicles and/or farm units incidental to use of land for farming. Except for amateur radio use as permitted in § 120-106.2F(1), the use of such a tower under this exception may not be combined with any other use.

- (4) A tower or antenna erected by the Town of Weymouth for municipal public safety communication purposes.

§ 120-106.3. Solar energy facilities. [Added 10-19-2015 by Ord. No. 15-106]

- A. Purpose. The purpose is to protect the health and safety of occupants, individuals on abutting property and the general public; and to reduce adverse environmental effects by regulating the siting of solar installations.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC and whose primary function is as a commercial venture.

SMALL GROUND-MOUNTED OR ROOF-MOUNTED SOLAR ARRAYS — A solar installation with the primary function of providing solar to an existing structure on the same property.

- C. Solar installations, as defined in § 120-106.3, shall be permitted in the following districts as noted below, unless specifically prohibited:
- (1) Small ground-mounted or roof-mounted solar arrays shall be considered an accessory use and permitted by right as follows:
- (a) Roof-mounted solar arrays will be permitted by right in all districts.
- (b) Small ground-mounted solar arrays will be permitted by right in all districts with the exception of the Highway Transitional (HT) district. Installation may not exceed 10 feet in height and must not substantially increase the amount of impervious surfaces on site. Screening by berms, shrubs, trees or fencing shall be implemented to visually shield abutters from the small ground-mounted installations and will be subject to review by the Inspector of Buildings.
- (2) Large-scale ground-mounted solar photovoltaic installations will be permitted by right in the PIP District but will require site plan review under Article XXVA.
- D. Plan requirements. When seeking site plan approval, the following documents will be required in addition to the appropriate application.
- (1) A site plan showing:
- (a) Property lines and physical features, including roads, for the project site;
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

- (c) Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - (d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - (e) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - (f) Name, address, and contact information for proposed system installer as well as the responsible licensed electrician. Installation personnel will be subject to all requirements, including master/apprentice ratios, as set forth in MGL c. 141. Adherence to these regulations will be monitored and enforced by the Inspector of Buildings;
 - (g) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
- (2) Documentation of actual or prospective access and control of the project site.
 - (3) At the discretion of the Office of Planning and Community Development and/or the Building Department, a traffic impact assessment may be required for any large-scale ground-mounted installation to ensure that the project does not adversely impact sight lines or pose any danger to drivers from resulting reflections or glare.
 - (4) An operation and maintenance plan.
 - (5) Zoning district designation for the parcel(s) of land comprising the project site [submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose];
- E. Emergency services. The large-scale photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. As per the Massachusetts Comprehensive Fire Safety Code (527 CMR), signage will be required for all solar installations detailing specific electrical details of the installation as well as shutoff instructions.
- F. Abandonment or decommissioning.
- (1) Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned as defined below shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator

shall notify the Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with the local, state and federal waste disposal regulations.
 - (c) Stabilization or revegetation of the site as necessary to minimize erosion.
- (2) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Building Inspector. If the owner or operator fails to remove the installation in accordance with the guidelines set forth in this ordinance within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- G. Financial surety. Prior to commencing operation of the solar energy facility, the applicant shall provide a form of surety, either through escrow account, bond or otherwise, in an amount determined by the Planning Board to cover 125% of the cost of removal and site restoration. The applicant shall submit a fully inclusive estimate of the costs associated with removal, which shall be subject to review and approval by a qualified engineer retained by the Planning Board at the applicant's expense. The amount shall be increased annually to cover inflation, based on increases in the Consumer Price Index. The amount of the surety shall be reviewed every two years to determine whether it is still adequate or whether it shall be increased to satisfy increased cost estimates. Such surety shall not be required for municipal facilities owned and operated by the Town.

§ 120-106.4. Regulation of commercial marijuana. [Added 3-19-2018 by Ord. No. 18-002, as corrected 8-10-2020 by Ord. No. 20-091]

Consistent with MGL c. 94G, § 3(a)(2)(i), all types of non-medical "marijuana establishments" as defined in MGL c. 94G, § `1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana related businesses, shall be prohibited in all zoning districts.

ARTICLE XXII
Administration and Enforcement

§ 120-107. Interpretation.

In interpreting and applying the provisions of this bylaw, they shall be held to be the minimum requirements adopted for the promotion of health, safety, morals, comfort, convenience and the general welfare of the inhabitants of the Town of Weymouth.

§ 120-108. Enforcing official.

The provisions of this bylaw shall be enforced by the Inspector of Buildings. No application, permit, plan, specifications or intended use which is not in accordance with the provisions of this bylaw shall be approved by the Inspector of Buildings.

§ 120-109. Permit required; plan; records.

No building or structure shall be erected, reconstructed, altered, enlarged or moved and no use of any land or premises shall be begun or changed without a permit having been issued by the Inspector of Buildings. Whenever a permit or license is issued by any other department of the Town, such permit or license shall be in conformance with the provisions of this bylaw. Any application for a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot or premises to be built upon; the exact location and size of all buildings or structures to be erected, constructed, reconstructed, altered or enlarged, together with the lines within which all buildings or structures are to be erected, constructed, reconstructed, altered or enlarged; the existing or intended use of each building or structure; the location of all zoning district boundary lines as they may affect the lot or premises; the location and size of off-street parking and loading facilities and driveways, where required; and such other information as may be necessary to provide for the execution and enforcement of this bylaw. A record of all applications, plans and permits shall be kept on file in the office of the Inspector of Buildings of the Town of Weymouth, and said record shall be available for public inspection during regular office hours.

§ 120-110. Occupancy permit.

No occupancy, use or change of use shall take place without the issuance of an occupancy permit signed by the Inspector of Buildings. Said permit shall not be issued until the building, structure, premises or land or its uses, and the uses incidental thereto, have been inspected and approved as sufficiently completed to comply with the provisions and regulations of this bylaw by said Inspector of Buildings, and the same shall be available for public inspection during regular office hours.

§ 120-111. Investigation of violations; service of notice. [Amended June 1978 STM by Art. 3, approved 11-2-1978; May 1990 ATM by Art. 46, approved 9-13-1990]

- A. If the Inspector of Buildings shall be informed or have reason to believe that any provision of this bylaw has been, is being or may be violated, he may make or cause to be made an investigation of the facts and inspect the property where the violation may exist.
- B. If he shall find any such violation, he shall give notice thereof in writing to the owner or to his duly authorized agent by means of a written compliance order or a warning citation.
- C. If, after such notice, the premises are continued to be used in a manner contrary to the provisions of this bylaw, or if any such owner shall fail to obey any lawful order of the Inspector of Buildings in respect to any violation or use contrary to the provisions of this bylaw, the Inspector of Buildings shall proceed with enforcement by either of the two methods provided in § 120-112 below.
- D. If said Inspector of Buildings is requested in writing to enforce such bylaws against any person allegedly in violation of the same and such Inspector of Buildings declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor within 14 days of receipt of such request.

§ 120-112. Enforcement; violations and penalties. [Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1990 ATM by Art. 46, approved 9-13-1990]

- A. Criminal complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense brought in such manner shall be \$300 for each offense. Each day that willful violation continues shall constitute a separate offense.
- B. Noncriminal disposition.
 - (1) In addition to the procedures for enforcement as described above, the provisions of this Zoning Bylaw may also be enforced by the Inspector of Buildings by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D. Each day on which a violation exists shall be deemed to be a separate offense.
 - (2) The penalty for violation of any provision of this bylaw shall be a warning citation for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.

§ 120-113. Effect on other regulations.

This bylaw shall not interfere with or annul any bylaw, rule, regulation or permit; provided that, unless specifically excepted, where this bylaw is more stringent, it shall control.

§ 120-114. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

ARTICLE XXIII
Permit Granting Authority
[Added June 1978 STM by Art. 3, approved 11-2-1978]

§ 120-115. Designation of permit granting authority.

The "permit granting authority" shall mean the Board of Zoning Appeals.

§ 120-116. Designation of special permit granting authority.

Unless otherwise specifically designated under this bylaw, the special permit granting authority shall be the Board of Zoning Appeals.

§ 120-117. Expiration of special permits.

Unless a lesser time is provided in this bylaw or specified in the decision of the special permit granting authority, a special permit shall lapse not later than 24 months, inclusive of such time required to pursue or await determination of an appeal under MGL c. 40A, § 10, from the grant of such permit if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

ARTICLE XXIV
Board of Zoning Appeals
[Amended November 1976 STM by Art. 8, approved 3-16-1977; June 1978 STM by Art. 4, approved 10-26-1978]

§ 120-118. Establishment; membership.

- A. In accordance with the provisions of Chapter 40A of the General Laws, a Board of Zoning Appeals shall be appointed by the Mayor subject to review by the Town Council as per Section 2-10 of the Weymouth Town Charter. All members shall be citizens of the Town of Weymouth. The Board of Zoning Appeals shall consist of five regular voting members and four associate members. Elected officials of the Town may not be appointed to the Board. The Mayor shall appoint a Board of individuals with a balanced mix of professional experience or educational background in the following fields: architecture, civil/structural engineering, law, building/construction, real estate development, business or environment. Two members shall be citizens at large. Any vacancy in the Board shall be filled by an appointment made by the Mayor for the remainder of the term. In the case of an unfilled vacancy or inability to participate on the part of a member of the Board, the Chairman shall designate one of the associate members to take the place of such member.

- B. Appointments will initially be made on March 20, 2000, and expire on March 19 of every year. Appointments and/or reappointments will continue in two-year terms.
- (1) Seat 1, 2 and 3: initial terms of one year.
 - (2) Seats 4 and 5: initial terms of two years.
 - (3) Associates A and B: initial terms of one year.
 - (4) Associates C and D: initial terms of two years.
- C. The Board of Zoning Appeals, in accordance with the provisions of MGL c. 40A, § 12, will elect a Chairman and a Clerk at the first meeting to take place after March 20 of every year.

§ 120-119. Powers.

- A. The Board of Zoning Appeals shall have the following powers:

- (1) To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Inspector of Buildings, by the Metropolitan Area Planning Council or by any person, including an officer or board of the Town of Weymouth, or of an abutting city or town aggrieved by an order or decision of the Inspector of Buildings in violation of any provision of Chapter 40A of the General Laws or of this bylaw.
 - (2) To hear and decide applications for special permits under which the Board is empowered to act under this bylaw, as subject to the provisions of Article XXV of this bylaw.
 - (3) To hear and decide, upon appeal or petition, requests for variances after public hearing for which notice has been given by publication and posting as provided in MGL c. 40A, § 11, and by mailing to all parties in interest. Variances from the term of this bylaw with respect to particular land or structures shall be granted only when the Board of Zoning Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the petitioner or applicant, or that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw. No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located; provided, however, that such variances properly granted prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions there were in effect for such variance upon said effective date.
- B. The Board of Zoning Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structures, but excluding any condition, safeguards or limitation based upon the continued ownership of

the land or structures to which the variance pertains by the applicant, petitioner or any owner.

- C. If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse and may be reestablished only after notice and a new hearing pursuant to this article.

§ 120-120. Procedure.

- A. The Board of Zoning Appeals shall act on all matters within its jurisdiction under this bylaw in the manner described in Chapter 40A of the General Laws and subject always to the rule that it shall give due consideration to promoting the public health, safety, convenience and welfare and to conserving property values, that it shall permit no building or use injurious, noxious, offensive or detrimental to a neighborhood and that it shall prescribe appropriate conditions and safeguards in each case.
- B. Any application for a hearing before the Board of Zoning Appeals under this bylaw shall be accompanied by a filing fee in accordance with the fee schedule established under the rules and regulations of the Board of Zoning Appeals and as approved by the Board of Selectmen. [Amended May 1979 ATM by Art. 55, approved 8-21-1979]
- C. In the case of every appeal made to said Board and every application for a special permit or variance made to it under the provisions of this bylaw, the Board of Zoning Appeals shall fix a reasonable time for and shall hold a public hearing thereon in accordance with the provisions of Chapter 40A of the General Laws. A decision of the Board must be made within 75 days after filing the appeal, application or petition, except with respect to special permits, in which case the time period is 90 days from the date of the public hearing. Failure of the Board to act within the time periods results in the constructive granting of the petition.

§ 120-121. Repetitive petitions. [Amended May 1989 ATM by Art. 52, approved 7-28-1989]

If an appeal for a special permit for exception or variance is unfavorably decided by the Board, no appeal shall be considered for the same interpretation within two years after the date of such unfavorable decision, except with the consent of six members of the Planning Board.

ARTICLE XXIVA
Site Plan Review Authority
[Added May 1993 ATM by Art. 53, approved 7-9-1993]

§ 120-121.1. Authority established.

In accordance with the provisions of Chapter 40A of the General Laws, the Director of Planning and Community Development or the Director's nominee in the Department of Planning and Community Development shall be the site plan review authority for the purpose of conducting site plan reviews.

§ 120-121.2. Powers.

- A. The site plan review authority shall have the power to review and decide applications for site plan review under which the board is empowered to act under this bylaw, as subject to the provisions of Article XXVA of this bylaw.
- B. Decisions on site plans can only be made by a majority vote of the Planning Board, sitting as the site plan review authority.
- C. If a building permit is not applied for within two years of the date of a site plan review decision, the site plan review decision shall lapse and may be reestablished only by application pursuant to this article.

§ 120-121.3. Procedure.

The site plan review authority shall act on all matters within its jurisdiction under this bylaw in the manner described in Chapter 40A of the General Laws and subject to Article XXVA of these bylaws that it shall prescribe appropriate conditions and safeguards in each case.

ARTICLE XXV
Special Permits

[Amended June 1978 STM by Art. 2, approved 11-2-1978; May 1979 ATM by Art. 55, approved 8-21-1979; May 1990 ATM by Art. 51, approved 9-13-1990; May 1993 ATM by Art. 56, approved 7-9-1993]

§ 120-122. Rules; application procedure; conditions.

- A. Rules of special permit granting authority; certificate of compliance. The special permit granting authority shall be the Board of Zoning Appeals, the Planning Board or the Board of Selectmen, as specifically provided for in this bylaw. The Board of Zoning Appeals, the Planning Board and the Board of Selectmen shall adopt and from time to time amend rules relative to the issuance of such permits and shall file a copy of said rules with the Town Clerk. The Inspector of Buildings shall not issue a certificate of occupancy until and unless the appropriate special permit granting authority issues a certificate of compliance with the provisions herein provided. All construction, including landscaping, site preparation and other authorized uses of the land, shall be in compliance with an approved special permit and conditions attached thereto unless duly amended by permission from the special permit granting authority.
- B. Application procedure.
 - (1) Anyone wishing to apply for a special permit shall file an application 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 forthwith by the petitioner with the special permit granting authority. Specific application forms shall be provided for in the rules of each special permit granting authority.
 - (2) Within 65 days of the receipt of the properly executed application, the appropriate special permit granting authority shall hold a public hearing, for which notice has

been given by publication or posting as provided in MGL c. 40A, § 11, and by mailing said notice to all parties of interest.

- (3) Within 90 days following a public hearing or hearings, the special permit granting authority shall take final action on the application. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority. Failure to take final action shall be deemed to be a grant of the special permit applied for.
- (4) Special permits can only be granted by a two-thirds vote of the Planning Board, a vote of at least four members of the Board of Selectmen or a vote of at least four members of the Board of Zoning Appeals.
- (5) Any application for a special permit before the special permit granting authority, other than the Board of Zoning Appeals, shall be accompanied by a filing fee in accordance with the fee schedule established under the rules and regulations of the special permit granting authority and as approved by the Board of Selectmen, if such action is required.

C. Special permit conditions. In approving a special permit, the special permit granting authority shall be authorized to attach such conditions and safeguards as are deemed necessary and appropriate to protect the neighborhood and the Town of Weymouth. These may include but not necessarily be limited to the following:

- (1) Requirement of front, side or rear yards greater than the minimum required by this bylaw.
- (2) Requirements of screening of parking areas or other parts of the premises or from the streets by walls, fences, planting or other devices, as specified by the special permit granting authority.
- (3) Limitation of size, number of occupants, method or time of operation or extent of facilities.
- (4) Regulation of number, design and location of access drives or other traffic features.
- (5) Requirements of off-street parking or other special features beyond the minimum required by this or other applicable bylaws, codes or regulations.

D. Criteria for approval by special permit granting authorities. The special permit granting authority may approve any such application for a special permit only if it finds that, in its judgment, all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or Town.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

- (5) The public convenience and welfare will be substantially served.

ARTICLE XXVA

Site Plan Review

[Added May 1993 ATM by Art. 54, approved 7-9-1993]

§ 120-123. Rules; application procedure; criteria and conditions.

- A. Rules of site plan review authority. The site plan review authority shall adopt and from time to time amend rules relative to the review of such plans and shall file a copy of said rules with the Town Clerk. The Inspector of Buildings shall not issue a building permit until and unless the site plan review authority issues a decision of review with the provisions herein provided. The decision of review shall consist of all findings and conditions of the site plan review authority pertaining to a site plan.
- B. Application procedure.
 - (1) Anyone wishing to apply for a site plan review shall file an application directly with the site plan review authority as provided in this bylaw. Specific application forms shall be provided for in the rules of the site plan review authority.
 - (2) Within 30 days of the receipt of the properly executed application, the site plan review authority shall conduct a site plan review, for which notice shall be given to the property owner and by posting with the Town Clerk not less than seven days prior to the meeting.
 - (3) Within 35 days following a site plan review, the site plan review authority shall take final action on the application and file said action with the Town Clerk. Failure to take final action within the time prescribed shall be deemed to be a grant of the site plan as per the application.
 - (4) Any application for a site plan review before the site plan review authority shall be accompanied by a filing fee in accordance with the fee schedule established under the rules and regulations of the site plan review authority.
- C. Site plan review criteria. The site plan review authority shall limit the site plan review to the plan's ability to provide for the following criteria:
 - (1) Protection of adjoining premises and the general neighborhood from any substantially adverse impacts created by development of the lot or tract.
 - (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.
 - (3) Adequacy of the methods of providing for municipal facilities and essential services for the use of the lot or tract.
 - (4) Provisions for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the lot or tract.

D. Site plan review conditions. In conducting a site plan review, the site plan review authority may only attach such conditions and safeguards as are necessary within the criteria as set forth in this article, as follows:

- (1) Regulation of the number, design and location of vehicular and pedestrian drives and walkways or other traffic features on the site.
- (2) Location, number and layout of parking spaces, loading bays and the associated drives and aisles.
- (3) Location, design, number and intensity of all exterior lighting.
- (4) Location of signage, provided that any conditions fall within the permitted areas of Article XVI.
- (5) Amount and location of landscaping to screen parking areas, loading bays or other parts of the premises from the streets or abutting properties by walls, fences, plantings or other devices.
- (6) Location and design of municipal facilities and other essential services provided for the use on the lot or tract.

E. Site plan review applicability. A site plan review shall be conducted for certain permitted uses within the various zoning districts as follows:

- (1) Resident District R-2. The following uses and uses customarily accessory thereto:
 - (a) Three-family dwelling unit.
 - (b) Alteration of a dwelling existing prior to May 1990 for up to four dwelling units.
- (2) Resident District R-3. The following uses and uses customarily accessory thereto:
 - (a) Any building or group of buildings for occupancy with five dwelling units, up to a maximum of 19 dwelling units.
 - (b) Nursing home and convalescent home.
- (3) Resident District R-4. The following uses and uses customarily accessory thereto:
 - (a) Any building or group of buildings for occupancy with five dwelling units, up to a maximum of 19 dwelling units.
 - (b) Nursing home and convalescent home.
 - (c) Private club or lodge.
- (4) Neighborhood Center District NCD. The following uses and uses customarily accessory thereto:
 - (a) All permitted nonresidential uses with a floor area in excess of 3,000 square feet.

- (5) Highway Transition District HT. The following uses and uses customarily accessory thereto:
 - (a) Two-dwelling-unit structures.
- (6) Medical Service District MS. The following uses and uses customarily accessory thereto:
 - (a) All permitted nonresidential uses.
 - (b) Alterations to all nonresidential uses where any one or more of the following occurs:
 - [1] New construction or addition to a structure lawfully existing prior to May 1990 exceeding 5,000 square feet or more in gross floor area.
 - [2] Parking is increased by the extension of impervious cover by 10,000 square feet or more.
 - [3] Access for a public way to a site is widened or a new access is created.
 - [4] New primary pedestrian access to an existing structure.
- (7) Business District B-1 and Business District B-2. The following uses and uses customarily accessory thereto:
 - (a) Any nonresidential use containing 10,000 square feet or more but less than 20,000 square feet of gross floor area or containing 10,000 square feet or more but less than 40,000 square feet of land area.
- (8) Planned Industrial Park District PIP, Planned Office Park District POP and Industrial Districts I-1 and I-2. The following uses and uses customarily accessory thereto:
 - (a) Any nonresidential use containing 10,000 square feet or more but less than 20,000 square feet of gross floor area or containing 10,000 square feet or more but less than 40,000 square feet of land area.

§ 120-124. through § 120-126. (Reserved)

**ARTICLE XXVI
(Reserved)**

§ 120-127. (Reserved)

ARTICLE XXVII
(Reserved)

§ 120-128. (Reserved)

§ 120-129. (Reserved)

ARTICLE XXVIII
Moratorium on Medical Marijuana Treatment Centers ²⁴
[Added 3-4-2013 by Ord. No. 13-011]

§ 120-130. Purpose.

The Massachusetts Medical Marijuana Initiative, also known as "Ballot Question Three," was approved by voters at the Massachusetts State election on November 6, 2012. The law regulates the cultivation, distribution, possession, and use of marijuana for medical purposes. The law is effective on January 1, 2013, and the State Department of Public Health is directed to promulgate regulations regarding implementation of the law within 120 days after the law's effective date.

Under the current Zoning Ordinance, a medical marijuana treatment center is not defined and is not a permitted use in the Town. The Department of Public Health regulations should provide guidance to communities regulating medical marijuana treatment centers at the local level. As this is a new type of land use in the state, there will be unique and new aspects to the use that could require oversight and regulations. These local impacts, which could be legal, land use, public safety, and public health, should be evaluated and addressed in a comprehensive manner in the Zoning Ordinance prior to the permitting of a medical marijuana treatment center. The moratorium, of a finite duration, will allow the Town to carefully study the potential impacts, both primary and secondary, of such centers and, through a directed planning process, recommend zoning ordinance amendments to address the Town's concerns in the context of the Master Plan and other Town planning goals and objectives.

§ 120-131. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MEDICAL MARIJUANA TREATMENT CENTER — A not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oil or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

24. Editor's Note: Ord. No. 14-078, adopted 7-14-2014, amended this chapter to regulate registered marijuana dispensaries. See the definition in § 120-6 and the I-1 District permitted uses in § 120-28. See also Ch. 9, Sec. 9-700, Medical Marijuana.

§ 120-132. Establishment and duration.

- A. No building permit, special permit, variance, site plan or other permit may be issued under this zoning ordinance, and no use of land or structures shall be allowed for the purpose of establishing a medical marijuana treatment center or associated activities.
- B. The moratorium shall be in effect through and including May 1, 2014, or until such time as zoning amendments are adopted that address medical marijuana treatment centers and associated activities, whichever shall be sooner.

§ 120-133. Applicability.

This article shall be effective in all zoning districts in the Town, including overlay districts.

ZONING

120 Attachment 1

Town of Weymouth

Table 1
Schedule of District Regulations

[Amended April 1971 ATM by Art. 47, approved 8-24-1971; February 1972 STM by Art. 6, approved 5-8-1972; October 1972 STM by Art. 8, approved 12-6-1972; June 1976 STM by Art. 26, approved 10-18-1976; February 1979 STM by Art. 1, approved 4-19-1979; May 1983 ATM by Art. 48, approved 8-26-1983; February 1985 STM by Art. 7, approved 6-3-1985; May 1985 ATM by Art. 44, approved 7-25-1985; May 1987 ATM by Arts. 51 and 52, approved 8-27-1987; May 1990 STM by Arts. 1, 2, 3, approved 8-29-1990; May 1990 STM by Art. 52, approved 9-13-1990; May 1992 ATM by Arts. 34 and 37, approved 10-1-1992; May 1997 ATM by Art. 40, approved 8-11-1997; May 1998 ATM by Art. 43, approved 10-23-1998; 1-17-2017 by Ord. No. 16-150; 8-10-2020 by Ord. No. 20-093]

District	Type of Use	Minimum Lot Size (square feet)	Minimum Lot Area (square feet per dwelling unit)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Lot Coverage (percent of lot area)	Maximum Height
R-1	One-family	25,000 (See §§ 120-51, 120-52, 120-53.1 and 120-53.2)	25,000	120 (See §§ 120-51, 120-52, 120-56, and 120-59.1)	18 (See § 120-54)	10; 20 feet of any dwelling (See § 120-55)	24 or 1/5 of depth of lot, whichever is less (See § 120-55)	30%	2 1/2 stories, not to exceed 35 feet
R-2	Mixed residential		10,000 for single-family and nonresidential, plus 5,000 per each additional residential unit to a maximum of 3 total units	75; 75 feet of frontage	18 (See § 120-54)	10 (See §§ 120-54, 120-55 and 120-59)	10; 20 feet from any other dwelling	30% for building; 25% minimum for landscaping (See § 120-62.1)	3 stories, not to exceed 35 feet
R-3	Garden-type multiple	15,000 (See § 120-52)	One- to two-unit residence buildings: 15,000 All 3-or-more-unit buildings for multiple-family residential use based on FAR of 0.25 (See § 120-6)	20 (See §§ 120-52, 120-56 and 120-59.1)	20 (See § 120-54)	20 (See § 120-55)	20 (See § 120-55)	Minimum 20% landscaped area (See § 120-62.1)	3 stories, not to exceed 35 feet
R-4	Multiple	15,000	All units in all multiple-family residential building based on FAR of 0.30. (See § 120-6, "floor area ratio")	120 (See §§ 120-56 and 120-59.1)	40 plus 5 feet for each setback for each story above 3rd floor (See § 120-54)	20 plus 2 feet for each story above the 3rd floor (See § 120-54)	30 or 1/2 the building height, whichever is greater (See § 120-54)	Minimum 20% landscaped area (See § 120-62.1)	6 stories, not to exceed 80 feet (See § 120-57)
NCD	Neighborhood center	7,500 (See § 120-58)	(See § 120-22.3)	50 (See §§ 120-52 and 120-56)	18 (See § 120-56B)	10 (See §§ 120-55 and 120-59)	10 (See §§ 120-55 and 120-59)	None	2 1/2 stories, not to exceed 35 feet
HT	Highway transition; residential office and small-scale commercial		15,000; FAR of 0.25	75; 60 feet of frontage	20	10 (See § 120-59)	10 (See § 120-59)	50%; 25% minimum for landscaping (See § 120-62.1)	3 stories or 45 feet, whichever is less

WEYMOUTH CODE

District	Type of Use	Minimum Lot Size (square feet)	Minimum Lot Area (square feet per dwelling unit)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Lot Coverage (percent of lot area)	Maximum Height
MS	Medical-related services		15,000	60; 60 feet of frontage (See § 120-56)	20	10, inclusive of walkways and driveways, 5 feet of which shall be landscaped (See § 120-59)	10, inclusive of walkways and driveways, 5 feet of which shall be landscaped (See § 120-59)	75% for building and paved areas; 25% minimum for landscaping (See § 120-62.1)	3 stories or 45 feet, whichever is less; 6 stories or 80 feet whichever is less, by special permit by the Planning Board
B-1	Limited business	10,000 (See § 120-58)		100 (See §§ 120-56 and 120-58)	30, excluding signs	10 (See § 120-59)	10 (See § 120-59)	50% and minimum landscaped area (See § 120-62.1)	6 stories, not to exceed 80 feet (See § 120-57)
B-2	General business	None	All units in multiple-family residential buildings based on FAR (See § 120-6, "floor area ratio")	None	None	None (See § 120-59)	None (See § 120-59)	None	6 stories, not to exceed 80 feet (See § 120-57)
I-1	Industrial park	20,000		100 (See §§ 120-56 and 120-60)	40	25 (See §§ 120-61 and 120-62)	None (See § 120-62)	80% and minimum landscaped area (See § 120-62.1)	6 stories, not to exceed 80 feet (See § 120-57)
PIP	Planned industrial park	43,560 (1 acre)		150 (See §§ 120-56 and 120-60)	40 plus 5 feet of setback for each story above 3rd floor (See §§ 120-34H, and 120-54)	25 (See §§ 120-34H, 120-61 and 120-62)	25 (See §§ 120-34H and 120-62)	60%, paved and buildings, landscaped (See § 120-62.1)	3 stories, not to exceed 35 feet; up to 6 stories, not to exceed 80 feet, by special permit from the Planning Board
I-2	General industrial	None		None	None	None (See § 120-62)	None (See § 120-62)	None	6 stories, not to exceed 80 feet (See § 120-57)
POS	Public facilities and open space		None	40 feet; 40 feet of frontage	20	10 (See § 120-59)	10 (See § 120-59)	75% for building and paved areas; 25% for landscaping	3 stories or 35 feet, whichever is greater

ZONING

120 Attachment 2

Town of Weymouth

Table of Zoning Map Amendments

Adoption Date	Article Number	Attorney General Approval Date	Change
1971 ATM	46	8-24-1971	I-1 to R-1
1971 STM	2	2-4-1972	I-1 to R-1
1975 STM	15	1-26-1976	I-2 to B-2
1975 STM	16	1-26-1976	B-2 to R-1
1978 STM	7	4-19-1978	POS to B-2
1979 STM	2	4-19-1979	I-1 to PIP
1979 ATM	56	8-21-1979	R-1 to B-2
1979 ATM	57	8-21-1979	R-3 to I-2
1979 ATM	65	8-21-1979	I-1 to R-1
1980 ATM	47	8-27-1980	R-1 to B-2
1980 ATM	48	8-27-1980	R-4 to B-1
1980 STM	2	3-25-1981	Public-Semi-public + Open Space to R4
1980 STM	4	3-25-1981	Public-Semi-public + Open Space to R3
1982 STM	1	9-13-1982	R-3 to Public-Semipublic + Open Space
1982 STM	2	9-13-1982	R-4 to Public-Semipublic + Open Space
1982 STM	5	9-13-1982	Public-Semi-public + Open Space to R-1
1982 STM	38	9-15-1982	Open Space to R-1
1983 ATM	50	8-26-1983	B-2 to NCD or R-1
1984 STM	5	4-2-1985	Public-Semi-public + Open Space to PIP
1985 STM	24	1-24-1986	PIP to POP
1986 ATM	50	5-5-1986	R-1 to R-3
1987 STM	5	5-21-1987	A. 1. I-1 to POS 2. I-1 to R-1
			B. 1. I-1 to POP 2. I-1 to R-1
			C. 1. I-1 to POS 2. I-1 to R-1
			D. 1. I-1 to R-1
1988 STM	4	9-2-1988	B-1 to R-1


WEYMOUTH CODE

Adoption Date	Article Number	Attorney General Approval Date	Change
1990 STM	4	8-29-1990	A. To HT: 1. B-2 2. B-1 3. R-1 4. R-3 5. I-1 B. To R-2: 1. B-2 2. B-1 3. R-1 4. I-1 C. To MSD: 1. B-2 2. B-1 3. R-1 4. POS D. To B-1: 1. B-2 2. R-1 3. R-3 4. I-2 E. To R-1: 1. B-2 2. B-1 F. To R-3: 1. B-1 G. To R-4: 1. B-1 H. To POP: 1. B-1 I. To POS: 1. B-2 2. R-1
1991 ATM	46	8-23-1991	A. To HT B. B-2 to B-1 C. B-1 to R-1 D. B-1 to R-1
1993 STM	8	4-2-1993	A. R-3 to B-1

ZONING

Adoption Date	Article Number	Attorney General Approval Date	Change
1993 STM	10	4-2-1993	A. To PIP: 1. I-1 2. POS 3. R-1
			B. To POS: 1. R-1 2. I-1
			C. To R-1: 1. I-1 2. POS
1993 ATM	60	7-9-1993	A. R-4 to POS B. R-1 to POS C. B-1 to POS D. R-1 to POS E. R-1 to POS F. I-2 to POS
1994 ATM	57	8-19-1994	A. B-1 to R-1 B. B-1 C. B-1
1995 ATM	58	7-31-1995	Show Groundwater Protection District
1995 ATM	83	7-31-1995	A. PIP to R-1
1996 ATM	53	9-9-1996	I-1 to R-1
1997 ATM	44	8-11-1997	POP to R-1
1997 ATM	45	8-11-1997	Extend B-1 of Lot 14, Block 488, Sheet 41
1998 STM	31	1-14-1999	R-1 to POS
1999 ATM	21	8-19-1999	B-1 to R-1
1999 STM	1	11-2-1999	R-4 to R-2 Lots 22 & 23, Block 469, Sheets 32 & 42
12-6-2010	Ord. No. 10-111		Weymouth Landing Zoning





Tighe&Bond

EXHIBIT C

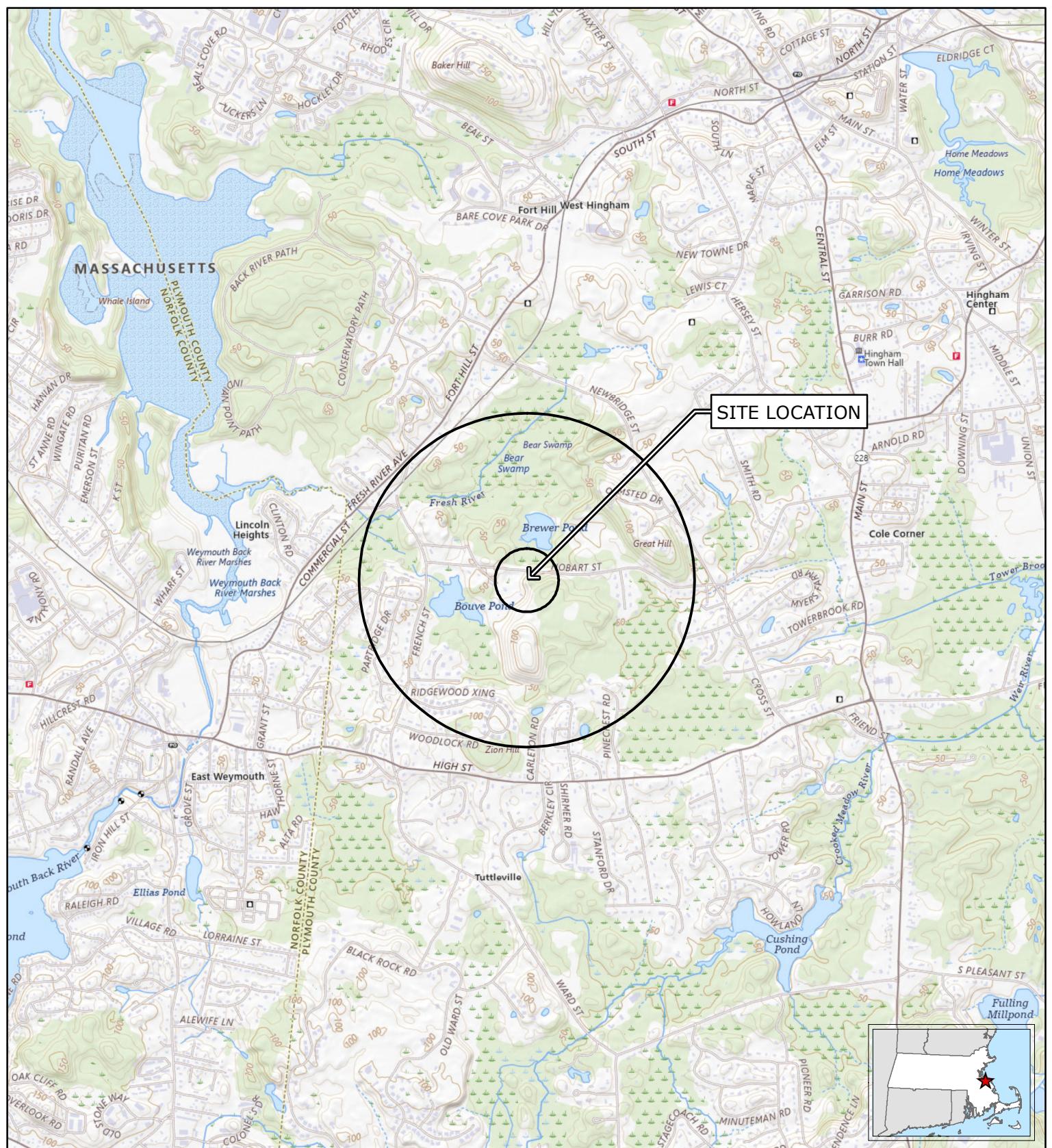


EXHIBIT C SITE LOCATION

Hobart II Tap Station
Hingham, Massachusetts

1:24,000
0 1,000 2,000
Feet

Tighe & Bond

Based on USGS National Map
Topo Basemap for Weymouth
Contour Interval Equals 3 Meters
Circles indicate 500-foot and half-mile radii.

Tighe&Bond

EXHIBIT D

Printed On: Nov 03, 2024 9:21am By: IJTrace
Tighe & Bond: J:\H\H5059 Transmission Reliability Upgrade\Drawings_Figures\AutoCAD\Sheet\H5059-001-C-PermitSet.dwg

TOWN OF HINGHAM
(CONSERVATION)
BK. 4948 PG. 467
MBLU 106/0/6

TOWN OF HINGHAM
(CONSERVATION)
BK. 3341 PG. 428
MBLU 106/0/5

PERMIT DRAWINGS NOT FOR CONSTRUCTION

Hobart II Substation

Hingham Municipal Lighting Plant

Exhibit D
Conceptual Design
Hobart II Substation

ZONING DATA			
ZONE DISTRICT	OFFICIAL & OPEN SPACE		
OVERLAY DISTRICT(S)	PERSONAL WIRELESS SERVICES		
DIMENSIONAL INFO	REQUIRED	EXISTING	PROPOSED
MIN. LOT SIZE 106-0-4	NA	9.70 ACRES	9.70 ACRES
MAX. BLDG COVERAGE	10%	0%	3.4%
MAX. BLDG HEIGHT	35'	NA	25'
FRONT YARD SETBACK	40'	40'	10'
SIDE YARD SETBACK	40'	40'	62'
REAR YARD SETBACK	40'	40'	>100'

MARK	DATE	DESCRIPTION
PROJECT NO:	H5059-001	
DATE:	02/13/2022	
FILE:	H5059-001-C-PermitSet.dwg	
DRAWN BY:	TJG	
DESIGNED/CHECKED BY:	TJG	
APPROVED BY:	TJA	

SITE LAYOUT AND MATERIALS PLAN

SCALE: 1" = 20'

C-102

Tighe&Bond

EXHIBIT E

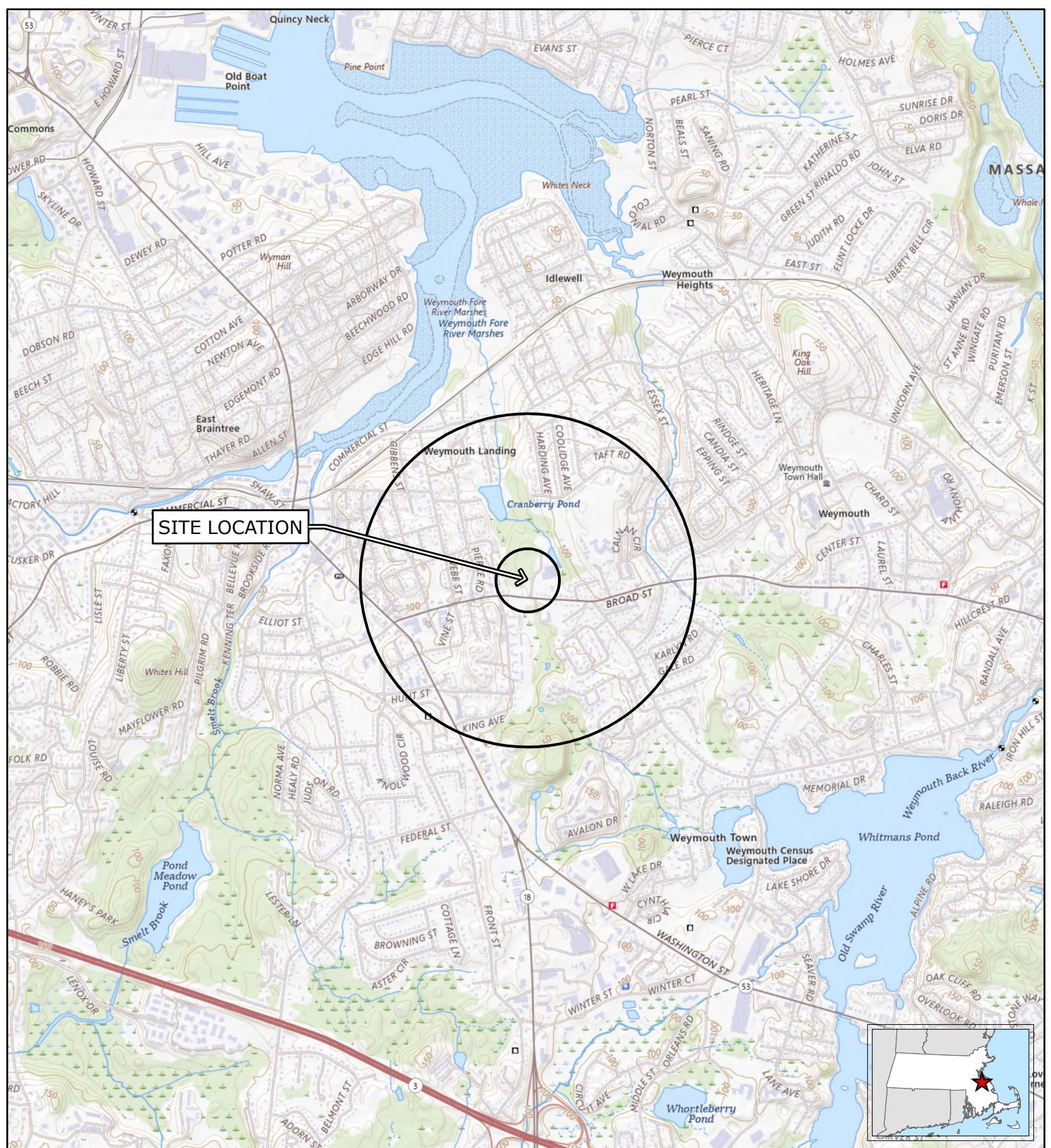


EXHIBIT E SITE LOCATION

Weymouth Tap Station
Weymouth, Massachusetts

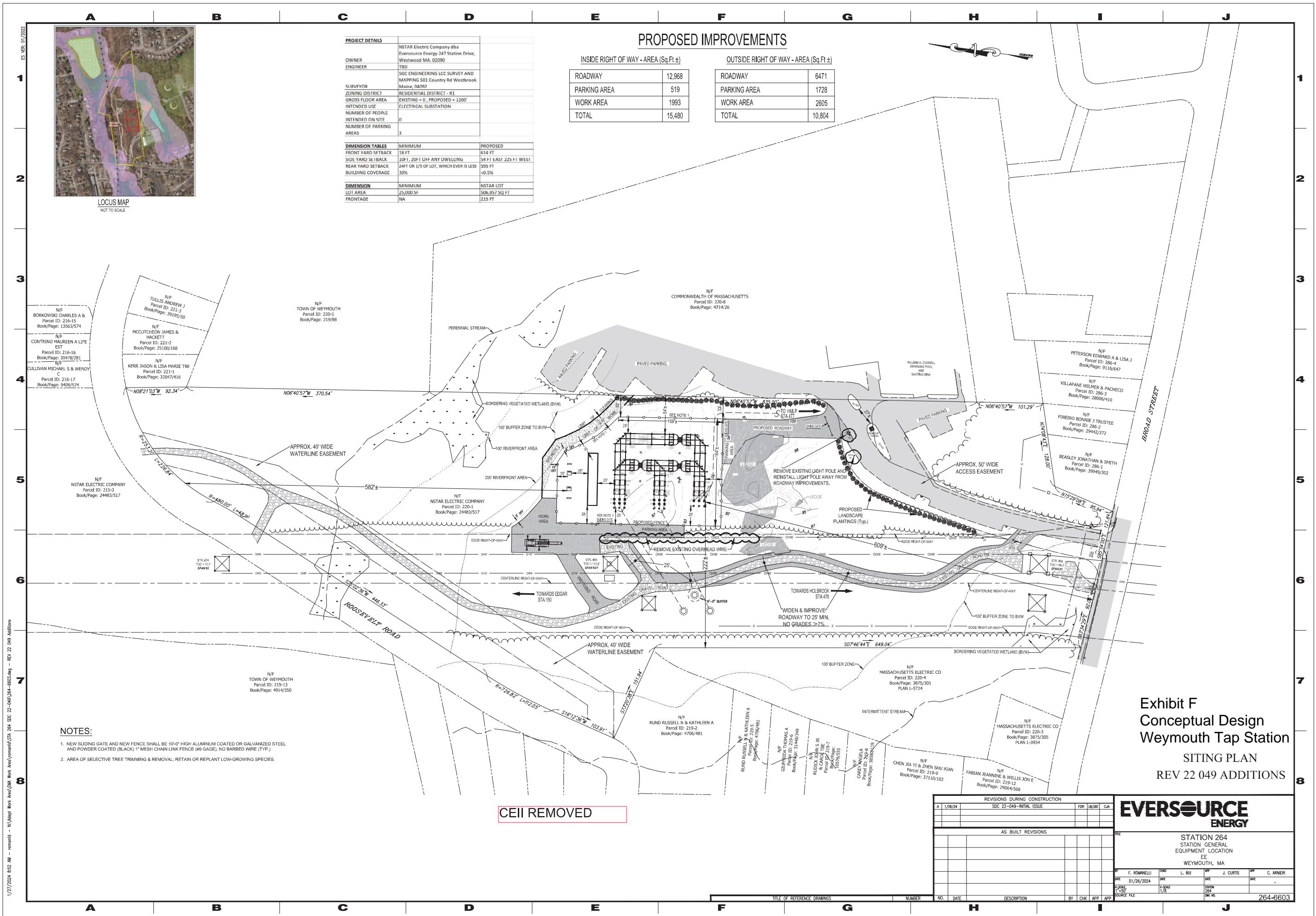
1:24,000
0 1,000 2,000
Feet

Tighe & Bond

Based on USGS National Map
Topo Basemap for Weymouth, MA.
Contour Interval Equals 10-Foot.
Circles indicate 500-foot and half-mile radii.

Tighe&Bond

EXHIBIT F



Tighe&Bond

EXHIBIT G



TOWN OF HINGHAM

Community Planning

MEMORANDUM

TO: Tom Mayo, Town Administrator

CC: Tom Morahan, General Manager

FROM: Emily Wentworth, Community Planning Director, Michael Silveira, Senior Planner, and Jennifer Oram, Zoning Administrator/Senior Planner

DATE: June 25, 2024

RE: Board Recommendations for Proposed Substation at 0 Old Hobart Street

The Planning Board and Zoning Board of Appeals recently reviewed proposed plans to locate a public utility building enclosing an electric substation and related site work on a portion of the Hingham Transfer Station property at 0 Old Hobart Street (Assessors Map 106, Lot 4) during a joint meeting held on June 4, 2024. Though the review was informal in nature, the meeting was advertised in a local public publication and abutters were noticed.

Article 26 of the 2022 Annual Town Meeting authorized the Select Board to transfer to the Hingham Municipal Lighting Plant (HMLP) the care, custody, management, and control of the northeast corner of the property for the construction and operation of the new electrical substation. Article 26 also authorized the Select Board to include terms and conditions deemed in the best interest of the Town in any agreements or documents necessary to transfer the parcel.

Section III-A, 3.10 of the Hingham Zoning By-Law allows public utility buildings and structures in the Official and Open Space District by a special permit administered by the Zoning Board. Based on the proposed level of disturbance associated with the project, Site Plan Review under Section I-I would also typically be required by the Planning Board. However, MGL c. 40A, s. 3 provides an exemption for certain public utilities that reads in part:

Lands or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or by-law if, upon petition of the corporation... the department of public utilities shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public; provided however, that if lands or structures used or to be used by a public service corporation are located in more than one municipality such lands or structures may be exempted in particular respects from the operation of any zoning ordinance or by-law if, upon petition of the corporation... the department of public utilities shall after notice to all affected communities and public hearing in one of said municipalities, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

While HMLP is pursuing a utility project zoning exemption through the Department of Public Utilities (DPU) from certain local zoning requirements, the informal review provided both Boards, as well as members of the public, to discuss the project and offer feedback regarding the plan. The Boards voted unanimously to recommend that the Select Board consider imposition of the following conditions when transferring custody of the parcel to HMLP:

1. Pre-Construction Meeting. A preconstruction review meeting with inspection of the erosion control installation and marked limits of clearing shall be required before issuance of a building permit.
2. Limits of Work. During clearing and/or construction activities, the marked limit of work shall be maintained until all construction work is completed and the site is cleaned up. All vegetation beyond the limit of work shall be retained in an undisturbed state and no stockpiling of topsoil or storage of fill, materials, or equipment may occur within the protected area.
3. Stormwater Pollution Prevention Plan (SWPPP). Since the overall project will disturb more than one acre, the Applicant shall submit a Stormwater Pollution Prevention Plan to the Community Planning Department a minimum of three weeks prior to the start of any work. The Select Board may require, at the applicant's expense, the establishment of a consultant fee account to fund the cost of the SWPPP review.
4. Construction Schedule. At least three weeks prior to the start of any work, the Applicant shall provide a construction schedule and traffic management plan to the Community Planning Department and Department of Public Works. Said construction schedule and traffic management plan shall incorporate assurance that major deliveries and site work will minimize disruption to the transfer station operations.
5. Construction Vehicles. All construction vehicles shall be parked onsite. No construction vehicles shall enter the premises before 7 AM on any given construction day.
6. Inspections. Inspections shall be required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control, limits of work, and the approved drainage and stormwater system installed for the project. The Select Board may require, at the applicant's expense, the establishment of a consultant fee account to fund the cost of such inspections.
7. As-Built Plan Requirement. Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must demonstrate substantial conformance with the stormwater system design and performance standards of the approved project plans.

Tighe&Bond

EXHIBIT H

**DEPARTMENT OF PUBLIC UTILITIES
CHECKLIST FOR FILING OF ZONING EXEMPTION PETITIONS**

The following checklist is intended to serve as guidance for persons filing petitions for exemption from a municipal zoning ordinance or bylaw pursuant to G.L. c. 40A, § 3, or pursuant to §6 of Chapter 665 of the Acts of 1956. Petitioners must complete all three parts of the form and submit a copy of the completed form with the petition at the time of filing.

PART 1: GENERAL INFORMATION

Petitioner name:

Hingham Municipal Lighting Plant

Description of land or structures for which exemption is sought: A new enclosed substation ("Hobart II Substation") at the transfer station site (0 Old Hobart Street, Parcel number 106-0-4) in Hingham to be owned and operated by HMLP; and a new tap station ("Tap Station") on an Eversource-owned transmission corridor (0 Broad Street, Parcel number 20-220-1) in Weymouth that would be owned and operated by Eversource.

Municipality:

Hingham and Weymouth, MA

PART 2: CONTENTS OF FILING

The filing (petition and accompanying documentation) must contain, at a minimum, the following information:

- A demonstration that the petitioner is a public service corporation that may seek a zoning exemption pursuant to G.L. c. 40A, § 3, with supporting documentation as necessary. See Section V.
- A list of the sections of the zoning ordinance or bylaw from which the petitioner seeks an exemption, together with a summary of each such section and an explanation of why exemption from that section is needed, with supporting documentation as necessary. See Section VII Parts B and C.

- A description of the use of land or structures which are the subject of the exemption request, and an explanation of the purpose of the proposed use. [See Section II.](#)
- An explanation of the public benefits to be provided by the proposed use of land or structures, with a supporting analysis and a description of the methods used to develop this analysis. [See Section VI Part B.](#)
- A description of alternatives to the proposed use of land or structures, including the use of existing structures or facilities. [See Section VI Part C.](#)
- An analysis of the environmental or other impacts of the use of land or structures, during both construction and operation. This analysis could include, without limitation, impacts on land use at or near the site, on wetlands or water resources at or near the site, visual and noise considerations, traffic and access considerations, public safety considerations, air pollutant emissions, or the use of hazardous substances. [See Section VI Parts D and E.](#)
- A list of all permits required for the proposed use of land or structures prior to construction, during construction and during operation. [See Section IX.](#)

NOTE: All information provided in the filing (including the petitioner's analysis of the need for each exemption sought) must be adopted by witnesses who will be able to testify and respond to questions at evidentiary hearings. The petitioner should be prepared to identify which witness will adopt which part of the filing no later than three weeks after the filing date.

PART 3: ATTACHMENTS

The following documents must be submitted with the petition:

- An attested copy of the municipality's complete zoning ordinance or bylaw, as in effect at the date of filing. [See Exhibit A for Hingham's Zoning By-law and Exhibit B for Weymouth's Zoning Ordinance](#)
- Copies of any zoning decisions or related municipal actions taken with respect to the proposed use of land or structures. [See Exhibit G for Recommendations from the Hingham Planning Board and Zoning Board of Appeals Checklist for Zoning Exemption Petitions](#)

- A United States Geological Survey map (1:24,000 or 1:25,000 scale and in color) of the area, showing the locus of the land or structures.
[See Exhibit C for a USGS Locus Map for the Hobart II Substation and Exhibit E for a USGS Locus Map for the Weymouth Tap Station](#)
- A diagram of the site of the proposed use, showing property boundaries, existing and proposed structures, and other use areas (e.g., roadway, parking, and materials storage/transfer areas) at the site.
[See Exhibit D for the layout of the Hobart II Substation and Exhibit F for the layout of the Weymouth Tap Station](#)
- Either: (1) a copy of the Environmental Notification Form (“ENF”) for the project and the Certificate of the Secretary of Environmental Affairs on such ENF; or (2) an affidavit from the petitioner stating that the proposed use does not require the filing of an ENF. If an Environmental Impact Report (“EIR”) is required, and has been submitted to the MEPA Office at the time of filing, a copy of the EIR(s) and any related Certificates also should be submitted with the petition.
[N/A See Exhibit I MEPA Statement](#)
- Draft MEPA Section 61 findings relating to the proposed use of land or structures, if an EIR is required for the proposed use. [N/A See Exhibit I MEPA Statement](#)
- A draft hearing notice (hard copy and electronic form in Microsoft Word).
[See Exhibit J](#)
- Filing fee: A check for \$100.00, made payable to Commonwealth of Massachusetts.
[Provided under separate cover.](#)

All of the information requested above has been included in the Zoning Exemption Filing and attachments submitted with this form.

/s/ Robert D. Shapiro

11/13/2024

Signature

Date

Tighe&Bond

EXHIBIT I

H5059-001
November 11, 2024

Commonwealth of Massachusetts
Department of Public Utilities
Electric Power Division
1 South Station, 3rd Floor
Boston, MA 02110

Re: Joint Petition of Hingham Municipal Lighting Plant and NSTAR Electric Company d/b/a Eversource Energy Pursuant to G.L. c. 40A, § 3 for Individual and Comprehensive Exemptions from the Zoning By-law of the Town of Hingham and the Zoning Ordinance of the Town of Weymouth

D.P.U. 24-135

Affidavit of Tracy J. Adamski Regarding Review Under the Massachusetts Environmental Policy Act

I, Tracy J. Adamski, do hereby state and depose as follows:

1. I am an AICP-Certified Planner with over 29 years of experience and a Vice President in the Environmental Business Line at Tighe & Bond, Inc. with a business address of 53 Southampton Road Westfield, Massachusetts 10185.
2. I am testifying on behalf of Hingham Municipal Lighting Plant ("HMLP") in the above-captioned proceeding.
3. As an AICP-Certified Planner and a Vice President in the Environmental Business Line, I have analyzed the environmental impacts of HMLP's proposed modifications and the necessary environmental permitting at the state and local levels.
4. I have reviewed the thresholds found in 301 CMR 11.03 that identify categories of projects for which review under the Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61-62H, is required. I have determined that the Project as currently proposed will not exceed any of the review thresholds therein and, accordingly, the Project does not require the filing of an Environmental Notification Form with the Secretary of the Executive Office of Energy and Environmental Affairs.

Signed below under the pains and penalties of perjury this 11th day of November 2024.



Tracy J. Adamski, AICP
Vice President



Tighe&Bond

EXHIBIT J

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD
DEPARTMENT OF PUBLIC UTILITIES
NOTICE OF ADJUDICATION AND PUBLIC COMMENT HEARINGS**

EFSB 24-01/D.P.U. 24-135 – Hingham Municipal Lighting Plant Reliability Project

Project Summary and Public Comment Hearing Overview – Hingham Municipal Lighting Plant (“HMLP”) is proposing to construct, operate, and maintain (1) an approximately 3.2-mile underground transmission line in the Towns of Weymouth and Hingham (“New Line”); and (2) an enclosed substation located at the transfer station site at Old Hobart Street in the Town of Hingham (“New Substation”). HMLP also seeks approval of a proposed open-air switching station or tap station in Weymouth (“New Tap Station”), which would be constructed, owned, and operated by NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) within an existing transmission corridor. (The proposed New Line, New Substation and New Tap Station are referred to collectively as the “Project.”) A description and map of the Project are provided below.

The Siting Board will conduct two public comment hearings with both in person and remote participation options:

[Date and location of Hingham public hearing/Date and location of Weymouth public hearing]

Remote attendees: join by clicking (or entering) this link [insert link] from a computer, tablet, or smart device. For audio only participation, attendees can dial in at [insert phone number] (not a toll-free number) and then enter the [insert Webinar ID #]

To provide oral comments during the public comment hearings (in person or on Zoom), please send an email to Yonathan.Mengesha@mass.gov with your name, email address, mailing address, and specify which hearing location, by [insert date]. To provide comments by telephone, please leave a voicemail message referencing “EFSB 24-01” at (617) [insert number] with your name, telephone number, mailing address, and specify which hearing date, by [insert date]. Pre-registered commenters will speak first, and other commenters afterwards. The Siting Board also invites written comments on the Project. Written comments will be most useful to the Siting Board if submitted by [insert date].

Important Dates:

Public Comment Hearings [Insert dates]

Deadline to File Written Comments [Insert date]

Deadline to file for intervention/limited participant status [Insert date]

Public Comment Hearings:

You are invited to either or both public comment hearings to learn more about the Project and provide comments on the proposed Project. To build the Project, HMLP needs approval from the Energy Facilities Siting Board (“Siting Board”), part of Massachusetts state government. HMLP will present an overview of the Project. Public officials and members of the public will have an opportunity to ask questions and make comments about the proposed Project. The public comment hearings will be transcribed by a court reporter. Recordings of the public comment hearings will be available on the Siting Board’s YouTube channel after the hearings.

Public Review of the Company’s Petition:

A detailed description of the Project is electronically available via the Siting Board’s webpage for the Project: [insert link]. In addition, links to HMLP’s petitions, attachments, and analysis are on the webpage, and have been provided to the municipalities of Hingham and Weymouth. HMLP also maintains a webpage for the Project: [insert link]

Hard copies of HMLP’s petitions, including all attachments, are available for public inspection at the following locations:

Boston:

- Energy Facilities Siting Board, One South Station, 3rd floor, Boston, MA 02110

Hingham:

- Hingham Town Clerk, Hingham Town Hall, 210 Central Street, Hingham, MA 02043
- Hingham Public Library, 66 Leavitt Street, Hingham, MA 02043

Weymouth:

- Weymouth Town Clerk, Weymouth Town Hall, 75 Middle Street, Weymouth, MA 02189
- Tufts Library, 46 Broad Street, Weymouth, MA 02188

- Fogg Library, 1 Columbian Street, South Weymouth, MA 02190

Decision on the Project Proposal:

The two petitions filed by HMLP and Eversource have been consolidated for hearing before the Siting Board under docket number EFSB 24-01/D.P.U. 24-135. The public comment hearing marks the beginning of an official, state-level decision-making process focused on whether the Project should be approved. The Siting Board will make the decision based on the following laws:

- (1) Under G.L. (Massachusetts General Law) c.(chapter) 164, § (section) 69J, the Siting Board will review the HMLP's proposed Project to determine whether the Project will provide a reliable energy supply with a minimum impact on the environment at the lowest possible cost.
- (2) Under G.L. c. 40A, § 3, the Siting Board will determine (i) whether exemptions from the zoning enactments of Hingham and Weymouth are required, and (ii) whether the proposed Project is necessary, serves the public convenience, and is consistent with the public interest.

Intervention and Participation:

Persons or groups who wish to be involved in the Siting Board proceeding, beyond providing comments at the public comment hearing or submitting written comments, may seek either to intervene as a party or to participate as a limited participant. A petition to intervene or participate must also be filed no later than [insert date], and follow the instructions provided below.

“Intervenor” or “Party” Status: An intervenor can participate fully in the evidentiary phase of the proceeding, including the right to participate in evidentiary hearings, file a brief and present comments to the Siting Board on the Tentative Decision, and to appeal a Final Decision.

“Limited Participant” Status: A limited participant receives documents during the proceeding and may file a brief and present comments regarding the Tentative Decision to the Siting Board.

Any person seeking intervenor or limited participant status in this proceeding must file a petition to intervene or participate no later than [insert date]. A petition to intervene must demonstrate that the petitioner may be substantially and specifically affected by this proceeding. See below for filing instructions. For more information on the Siting Board’s procedural rules, please see the following link: <https://www.mass.gov/doc/980-cmr-105/download>.

Filing Instructions:

Written comments on the Project, or a petition to intervene or participate as a limited participant in this proceeding, must be filed in two places:

First, the comments or petition must be sent to the Siting Board by email - to dpu.efiling@mass.gov - AND to [insert Presiding Officer]@mass.gov - no later than the close of business on [insert date]. The text of the e-mail must specify: (1) the docket number of the proceeding (EFSB 24-01/D.P.U. 24-135); (2) the name of the person or entity submitting the filing; and (3) a brief description of the document. The email should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.

Second, the comments or petition must be sent by email to counsel for HMLP, Robert D. Shapiro, Esq., Duncan & Allen at RDS@duncanallen.com and to counsel for Eversource, David S. Rosenzweig, Esq., Keegan Werlin LLP at drosen@keeganwerlin.com.

Accommodation Requests:

Reasonable accommodations for people with disabilities (e.g., Braille, large print, electronic files, audio format) are available upon request. Include a complete description of the accommodation you will need and a way we can contact you if we need more information. Please provide as much advance notice as possible. Last minute requests will be accepted, but we may be unable to fulfill the request. Please contact the Department's ADA coordinator at melixza.esenyie2@mass.gov.

Language interpretation services are available upon request. Include in your request the language required and a way to contact you if we need more information. Requests may be made no later than [insert date]. It may not be possible to accommodate last-minute requests. Contact the Presiding Officer to make a request (contact information below).

Non-discrimination Notice:

The EFSB does not discriminate on the basis of race, color, national origin, disability, age, sex, income, ethnicity, class, handicap, religious creed or belief, gender identity, sexual orientation, genetic information, English language proficiency or ancestry in administration of its programs or activities. See the EFSB's Non-Discrimination Notice at:

<https://www.mass.gov/infodetails/efsb-non-discrimination-notice>.

Contact:

For further information about the proceeding, please contact the Presiding Officer at the address or telephone number below:

[insert name], Presiding Officer
Energy Facilities Siting Board
One South Station
Boston, MA 02110
[insert name]@mass.gov
(617) [insert tel. no.]

For periodic updates please visit the Siting Board's webpage for this proceeding found at: [insert EFSB webpage for Project].

Project Description:

HMLP's Project is designed to ensure the reliable electric service to approximately 10,500 metered HMLP customers, which include approximately 24,000 residents, as well as a number of medical facilities, schools, municipal offices and public safety buildings within the Town of Hingham.

The Town of Hingham currently is fed via two overhead 115 kV transmission lines covering a distance of approximately 3.3 miles which interconnect to HMLP's existing Hobart Substation. The existing transmission lines are supported by both wood and metal structures, including 22 double-circuit tower or DCTs, where the two lines share the same single pole. HMLP indicates that this configuration is susceptible to contingency events which can result in simultaneous loss of service from both transmission lines which, in turn, could cause an extended outage for the entire Town of Hingham.

HMLP's proposed Project would establish a new, independent transmission feed to Hingham. The New Line, which would be constructed, owned and operated by HMLP, would (1) interconnect to a New Tap Station in Weymouth, which would be constructed, owned, and operated by Eversource; (2) travel underground along public ways in Weymouth and Hingham; and (3) terminate at a New Substation that will be constructed, owned and operated by HMLP at the transfer station site in Hingham.

Description of New Line Routes, New Substation and New Tap Station:

The New Line:

The Preferred Route for the Project, also referred to as the Broad Street Route, is an approximately 3.2-mile underground route primarily along public ways, that exits the New Substation site at the Hingham transfer station and runs west on Hobart Street, turns south on French Street, then turns west on High Street and continues west into Weymouth on High Street which becomes Broad at Commercial Street. Broad Street is then followed for approximately 9,300 feet until ending at the New Tap Station Site located adjacent to the Eversource ROW in Weymouth.

The Noticed Alternative Route, also known as the Lake Street Route, is an approximately 3.7-mile underground route that exits the proposed New Substation in Hingham and runs west on Hobart Street, then turns south on French Street and turns west on High Street. The Noticed Alternative Route then continues west into Weymouth continuing on High Street which becomes Broad Street. This route then turns south down Water Street, turning north on Pleasant Street, and travels west on Lake Street, and northwest on Essex Street, which transitions to Spring Street. The route turns west onto Broad Street and continues west on Broad Street to the New Tap Station site adjacent to the Eversource ROW in Weymouth.

HMLP is also presenting a Variation of its Noticed Alternative Route which follows the same route out of the New Substation in Hingham to Broad Street in Weymouth. Then, instead of turning south down Water Street, the Variation follows Broad Street west and turns south on Shawmut Street and turns southwest onto Lake Street where it continues to follow the Noticed Alternative Route to the New Tap Station site in Weymouth.

The New Substation (Hingham):

The New Substation will be located on an approximately 24,000 square feet ("sf") undeveloped area in the northeastern corner of the 9.7-acre Town of Hingham Transfer Station off Old Hobart Street and in close proximity to HMLP's existing Hobart Substation. Structures, equipment, and site improvements will include a new Gas Insulated Switchgear ("GIS") substation, circuit breakers, bus work, protection and communications equipment, fencing and a retaining wall. Although not needed for capacity purposes at this time, the New Substation footprint is large enough to accommodate the addition of a new transformer and new switch gear to address peak load growth associated with electrification necessary to meet the Town of Hingham's and Commonwealth's climate goals

The New Tap Station (Weymouth):

The New Tap Station, an open-air substation including air-insulated switchgear, an electrical control enclosure, four 85-foot shielding masts, three electric overhead-to-underground transition structures, two 210-foot underground transmission interconnections between the

existing lines and the New Tap Station, one tangent pole, fencing and an additional parking area with new vehicular access drive, will be located on an approximately 2.5 acre portion of a 11.6-acre Eversource owned parcel within an existing transmission corridor on Broad Street in Weymouth.

A map showing the Preferred Route, the Notice Alternative Route (including a Variation on the Noticed Alternative Route), the New Substation and the New Tap Station is set out below:

