TOWN CLERK'S REPORT
SPECIAL TOWN MEETING
Monday, the Fourteenth Day of December, 2009

The Special Town Meeting of the Town of Foxborough convened at 7:35 P.M. in the auditorium of the Foxborough Senior High School, 120 South Street, Foxborough, Massachusetts with Mr. Francis J. Spillane, Town Moderator, presiding. Gary E. Whitehouse, Advisory Committee member, led the Pledge of Allegiance. Town Clerk Robert E. Cutler, Jr. read the Warrant and Return. One hundred ninety-two (192) inhabitants qualified to vote in elections and at town affairs were recorded as present.

ARTICLE 1: Moved that the town's Annual 2010 Budget appropriations voted pursuant to Articles 4 and 5 of the May 11, 2009 Annual Town Meeting be hereby amended and reduced as follows:

5/11/09 Article #	Dept #	Department	Budget	Adjust	Revised FY '10 Budget
4	156	GIS - Expenses	19,750	-9,750	10,000
5	171	Conservation	78,000	-78,000	0
		Capital – Dam Repair			
4	220	Fire – Capital Outlay	44,150	-27,000	17,150
4	410	Public Works – Capital Outlay	38,500	-6,000	32,500
4	543	Veterans – Expenses	73,585	-3,000	70,585
4	610	Library – Capital Outlay	12,500	-4,000	8,500
4	760	Debt Issuance & Expenses	50,000	-25,000	25,000
4	913	Worker's Compensation	180,000	-3,000	177,000
4	915	General Insurance	431,954	-5,261	426,693

ADOPTED Affirmative 170 Negative 1 7:50 PM

ARTICLE 2: Moved that Six Hundred Thousand Dollars ($600,000) be appropriated to be spent by the Town Manager with the approval of the Board of Health for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements with the Board of Health and residential property owners, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow Six Hundred Thousand ($600,000) Dollars and issue bonds or notes therefore under G.L. c111, s.127B1/2 and /or Chapter 29C of the General laws; that project and financing costs shall be repaid by the property owners, in accordance with those agreements, but such bonds or notes shall be general obligations of the Town; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof: and that the Board of Selectmen, Town Manager, or other appropriate local body or official is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the projects.

ADOPTED Aff. 165 Neg. 3 7:56 PM

ARTICLE 3: Moved that the Revised General By-Laws of the Town of Foxborough, Article IV, be hereby amended by adding the following new Section 10:

Section 10 Due Dates For Payment Of Town Charges And Bills, Interest

A. All charges and bills for the payment of any sum to the Town of Foxborough shall be due on the thirtieth day following the date such charge or bill was issued, absent any other provision of law permitting a longer time for payment.
B. Interest shall accrue on the amount of any sum remaining unpaid after such thirtieth day at the same percentage rate as is provided in Massachusetts General Laws Chapter 59, Section 57.

ADOPTED Aff. 168 Neg. 0 8:00 PM
Approved by the A.G. March 24, 2010. REC

The Special Town Meeting was recessed at 8:00 PM to be reconvened after the second Special Town Meeting.

SPECIAL TOWN MEETING
Monday, the Fourteenth Day of December 2009

The Special Town Meeting was convened at 8:02 PM in the Auditorium of the Foxborough Senior High School on South Street, Foxborough, Massachusetts by Mr. Francis J. Spillane, Town Moderator. There were one hundred ninety-nine (199) inhabitants qualified to vote at elections and town affairs recorded as present.

The Town Clerk, Robert E. Cutler, Jr. read the Warrant and Return.

Moved to recess the Special Town Meeting until the conclusion of Article #10 of the first Special Town Meeting of December 14, 2009 which was opened at 7:35 PM and recessed at 8:00 PM.

ADOPTED Affirmative 160 Negative 1 8:05 PM

Mr. Francis J. Spillane, Town Moderator, reconvened the Special Town Meeting which was previously recessed.

ARTICLE 4: Moved that the Revised General By-laws be hereby amended as follows:
by amending Article V, Section 13.D.2. to read as follows:
2. Removal of earth from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same. The term operating farm as used in this Article V, Section 13.D. shall be defined as a parcel of land five acres or more in area, the primary and principal use of which is agriculture and which is being actively operated for agriculture as the primary and principal use of the land and not as an accessory use.
and by amending Article V, Section 13.F. to read as follows:
F. Penalty: Any person, firm, or corporation willfully violating, disobeying, or refusing to comply with any of the provisions of this Article V, Section 13 shall be prosecuted under the terms of M.G.L. Chapter 40, Section 21 and shall be subject to a fine of for the first offence, fifty dollars; for the second offence, one hundred dollars; and for each subsequent offence, two hundred dollars.

The Town Manager, Building Commissioner, Police Chief or any person designated by the Board, is hereby empowered to enforce this Article V, Section 13 and is hereinafter referred to as the enforcing person. The enforcing person, as an alternative to such prosecution under the terms of M.G.L. Chapter 40, Section 21, may seek enforcement through a non-criminal proceeding pursuant to the provisions of M.G.L. Chapter 40, Section 21D, in which case the penalty for violation of this Article V, Section 13 shall be two hundred dollars ($200.00).
Each day of non-compliance with this Article V, Section 13 shall constitute a separate offense. The Board may revoke or suspend the permit of any person, firm, corporation or limited liability company holding a permit under this Article V, Section 13 if such person, etc. violates, disobeys, or fails to comply with any of the provisions of such permit or of this Article V, Section 13.

MOTION MADE TO AMEND ARTICLE 4: Moved to include after "operating farm" the words: "land in agricultural use and parcels of five acres or more used directly for agriculture."

NOT ADOPTED Aff. 20 Neg. 150 8:23 PM

MAIN MOTION ADOPTED
Aff. 155 Neg. 18 8:24 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 5: Moved that section 2(a) chapter 64 L of the General Laws of the Commonwealth be hereby accepted to impose an excise of 0.75% on sales of restaurant meals to take effect on April 2, 2010.

Moved to postpone indefinitely.

MOTION NOT ADOPTED
Aff. 90 Neg. 100 8:02 PM

MAIN MOTION NOT ADOPTED
Aff. 72 Neg. 83 8:40 PM

ARTICLE 6: Moved that the Foxborough Zoning Bylaws be amended by making the following changes:

ITEM 1. DELETE THE FOLLOWING ARTICLES OF THE EXISTING ZONING BY-LAWS IN THEIR ENTIRETIES:

ARTICLE 1:	CITATION AND PURPOSE
ARTICLE 2:	DEFINITIONS
ARTICLE 3:	ESTABLISHMENT OF DISTRICTS
ARTICLE 4:	USE REGULATIONS
ARTICLE 5:	DIMENSIONAL AND DENSITY REGULATIONS
ARTICLE 6:	SCREENING, BUFFERS AND LANDSCAPING
ARTICLE 7:	OFF STREET PARKING AND LOADING
ARTICLE 8:	SIGNS
ARTICLE 9:	SPECIAL REGULATIONS

ARTICLE 10: ZONING PROTECTION
ARTICLE 11: ADMINISTRATION AND ENFORCEMENT
ARTICLE 12: AMENDMENTS, VALIDITY AND SEVERABILITY

ITEM 2. SUBSTITUTE THE FOLLOWING NEW SECTIONS THEREFOR:

SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE. These By-Laws are enacted to promote the general welfare of the Town of Foxborough, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the Town, all as authorized by, but not limited by, the provisions of the Zoning Act, Massachusetts General Laws, Chapter 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.2 AUTHORITY. These By-Laws are enacted in accordance with the provisions of Massachusetts General Laws, Chapter 40A – The Zoning Act, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

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

1.3.1 Certain Terms. For purposes of these By-Laws, and except otherwise as may specifically be stated, all references to the term "Town" shall mean the Town of Foxborough; all reference to such terms as "Planning Board," "Board of Appeals," and the like shall mean such boards, agencies, committees or the like of the Town of Foxborough as are designated by such terms; and all references to such terms as "Building Commissioner," "Town Clerk," "Town Planner," and the like shall mean such officials of the Town of Foxborough as are designated by such terms.

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

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

1.4.2 Commencement. Construction or operations under a building permit or Special Permit shall conform to any subsequent amendments to these By-Laws, unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

1.5 REQUIREMENTS NOT ADDRESSED IN THESE BY-LAWS

1.5.1 Gravel Removal. All gravel removal operations shall only be authorized by the Board of Selectmen pursuant to the Town's Revised Earth Removal By-Law.

1.5.2 Wetlands. All operations governed by Massachusetts General Laws, Chapter 131, the Wetlands Protection Act, shall also require the authorization of the Conservation Commission pursuant to the Foxborough Wetlands Protection By-Law.

1.5.3 Demolition. All requests for demolition permits shall comply with the provisions of the Demolition By-Law per Section 10 of the Foxborough General By-Laws.

1.5.4 Scenic Roads. All operations conducted on roads designated as "scenic" shall comply with the provisions of the Scenic Roads By-Law, per Section 11 of the Foxborough General By-Laws.

1.6 ZONING AMENDMENTS. These By-Laws may be changed by amendment, addition or repeal, but only in the manner hereinafter provided.

1.6.1 Initiation. Any change to these By-Laws may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, the Planning Board, by an individual owning land to be affected by the change, by the request of registered voters pursuant to Massachusetts General Laws, Chapter 39, Section 10, or by the Metropolitan Area Regional Planning Council (MAPC). When a petition is presented by an individual owning land to be affected by the change or by the request of registered voters, the petition shall be accompanied by a reasonable fee

to cover the costs of the required public notices. The Board of Selectmen shall submit any proposed change to the Planning Board for review within fourteen (14) days of receipt of such change.

1.6.2 Public Hearing. No change shall be adopted until after the Planning Board has held a public hearing at which interested parties shall be given an opportunity to be heard. The public hearing shall be held within sixty-five (65) days after the proposed change is submitted to the Planning Board by the Board of Selectmen.

1. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Foxborough Town Hall for a period of not less than fourteen (14) days before the day of such hearing.

2. Notice of such hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, MAPC and to the Planning Boards of all abutting towns. A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under these By-Laws shall be sent by mail, postage prepaid to any such owner who files an annual request for such notice with the Town Clerk no later than January first and pays a reasonable fee.

3. Publication and notices shall contain the date, time and place of the hearing, a summary of the subject matter and the place where texts and maps may be inspected.

1.6.3 Planning Board Report. The Planning Board shall submit a report with recommendations to the Board of Selectmen and Town Meeting within twenty-one (21) days after the date of the public hearing.

1.6.4 Vote. No vote to adopt any proposed change shall be taken until after such notice, hearing and report is subsequently submitted or twenty-one (21) days have elapsed without the required report with recommendations, after which the Town Meeting may adopt, reject, or amend any such proposed change. If a Town Meeting fails to vote to adopt any proposed change within six (6) months after the Planning Board hearing, no action shall be taken thereon until after a subsequent public hearing held with notice and report as provided above. No change shall be adopted except by a two-thirds (2/3) vote of Town Meeting. No proposed change that has been unfavorably acted upon shall be considered by Town Meeting within two (2) years after the date of such unfavorable action, unless the adoption of such proposed change is recommended in the final report of the Planning Board.

1.6.5 Statement. The Planning Board shall furnish a statement explaining the change proposed, with supporting maps or plans to be submitted with the change to the Massachusetts Attorney General. The change shall also be published in a Town bulletin or pamphlet, copies of which shall be posted in Town Hall; or be published at least twice, one (1) week apart in a newspaper of general circulation in the Town of Foxborough. The publication shall include a statement that claims of invalidity because of any default in procedures may only be made within ninety (90) days of such posting of the second publication and a statement indicating where copies of such change may be examined.

1.6.6 Transmittal. After adoption and approval, a copy of the By-Law shall be sent to the Massachusetts Department of Community Affairs by the Town Clerk.

1.6.7 Legal Action. Pursuant to Massachusetts General Laws, Chapter 40, Section 32, legal action may be taken regarding defects in the procedure of adoption. A copy of the petition must be filed with the Foxborough Town Clerk within seven (7) days after the commencement of the action.

1.7 EFFECTIVE DATE. The effective date of any change shall be the date of the Town Meeting vote of acceptance, unless disapproved by the Massachusetts Attorney General, whereby the previous By-Law shall govern.

1.8 SEPARABILITY. The invalidity of any section or provision of these By-Laws shall not invalidate any other section or provision herein.

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT. For the purpose of these By-Laws, the Town of Foxborough is hereby divided into the following types of use districts:

RESIDENTIAL DISTRICTS

R-15 Residential District
R-40 Residential and Agricultural District

BUSINESS DISTRICTS

GB General Business District
NB Neighborhood Business District
HB Highway Business District

INDUSTRIAL DISTRICTS

LI Limited Industrial District
GI General Industrial District

OTHER DISTRICTS

S-1 Special Use District

2.2 OVERLAY DISTRICTS. The following overlay districts are established in Section 9.0:

Design Review Overlay District	DRD
Flood Plain Overlay District	FPOD
Water Resource Protection Overlay District	WRPOD
Economic Development Area Overlay District	EDAOD
Chestnut-Payson Overlay District	CPOD

2.3 ZONING MAP. The Town of Foxborough is divided into zoning districts, as provided herein and as shown on the zoning map entitled, "Zoning Map, Foxborough, Mass." Filed January 30, 1960 as amended from time to time which, together with all explanatory matter thereon, is hereby declared to be part of these By-Laws. Said Zoning Map shall be the official record of zoning status of areas within the Town.

2.3.1 Supplemental Maps. The supplemental maps indicated below are hereby adopted, and with others that may hereafter be officially adopted for special purposes indicated, shall have the same force and effect as the zoning map and are included as a part of the Zoning Map:

1. Flood Insurance Rate Map;

2. Water Resource Protection District Map

2.4 INTERPRETATION OF ZONING MAP. The locations and boundaries of districts shall be as shown on the Zoning Map and supplemental maps as amended and as are on file with the Town Clerk.

2.4.1 Right of Way. Where boundaries are indicated in the right-of-way of streets or watercourses, such boundaries shall be the centerline of the right-of-way.

2.4.2 Property Lines. Where boundaries approximately follow property lines and are not more than twenty-five (25) feet therefrom, the property line shall be the district boundary.

2.4.3 Parallel to Street or Road. Where boundaries are parallel to a street or road and are fixed by dimensions on the Zoning Map, the distances shall be measured from the right-of-way line where a plan is on file with the Norfolk County Registry of Deeds or, in the absence of such plan, from a line parallel to and twenty-five (25) feet from the centerline of the traveled way.

2.4.4 Scale. Where distances are not specified on the Zoning Map nor otherwise determined from the above provisions, the scale of the Zoning Map shall be used to determine the location of the district boundary.

2.4.5 Undefined Boundaries. The determination of boundaries in question not defined herein or on the Zoning Map, shall lie with the Board of Appeals.

2.4.6 Split Lots. Where a lot is transected by a zoning district boundary, the regulations of these By-Laws applicable to the larger part of the area of such lot may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary but not to exceed thirty (30) linear feet beyond such zoning district boundary, if the smaller part has frontage on an accepted way.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES. Except as provided by law or in these By-Laws in each district, no building or structure shall be constructed, used or occupied, nor shall land be used or occupied, except for the purposes permitted as set forth in the Table of Use Regulations.

3.1.1 By Right. A use listed in the Table of Use Regulations is permitted as of right in any district under which it is denoted by the letter "Y" subject to such restrictions as may be specified elsewhere in these By-Laws.

3.1.2 Not Permitted. A use listed in the Tale of Use Regulations is prohibited in any district under which it is denoted by the letter "N".

3.1.3 Special Permit; Board of Appeals. A use designated in the Table by the letters "BA" may be permitted as a Special Permit only if the Board of Appeals so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish.

3.1.4 Special Permit; Planning Board. A use designated in the Table by the letters "PB" may be permitted as a Special Permit only if the Planning Board so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish

3.1.5 Special Permit; Board of Selectmen. A use designated in the Table by the letters "SB" may be permitted as a Special Permit only if the Board of Selectmen so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish.

3.1.6 Uses. Land uses are only allowed as noted below. Any use not noted herein, is prohibited. The abbreviations used are as follows:

Y = Permitted
N = Not Permitted
BA = Permitted by Special Permit from the Board of Appeals
PB = Permitted by Special Permit from the Planning Board
SB = Permitted by Special Permit from the Board of Selectmen

Table 3-1 TABLE OF USES								
USE GROUP								
A. High Hazard Uses	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. All land and buildings which are used for the sale, storage, fabricating, assembly, manufacture or processing of combustible products or materials which are likely to burn with extreme rapidity or which may produce poisonous fumes after explosions	N	N	N	N	BA	Y	N	N
2. Processing, storage, or reclamation of waste materials	N	N	N	N	N	N	N	N
3. Motor vehicle fuel facility	N	N	BA	N	BA	BA	N	N
B. Low Hazard Uses	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. All land and buildings which are used for the storage, manufacture or processing of non-combustible materials, and low hazard wares that do not ordinarily burn rapidly and which are not High Hazard Uses	N	N	N	N	BA	Y	Y	PB
2. Processing, storage, or reclamation of waste materials	N	N	N	N	N	N	N	N
3. Parking lots constructed to the standards found in Section 6.1	N	N	Y	Y	Y	Y	Y	Y
4. Temporary parking lots, whether paved or unpaved, serving uses with seating capacities of over 7,500 people within the Special Use (S-1) District	PB	N	PB	PB	PB	PB	PB	PB
C. Mercantile/Retail	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Retail establishment	N	N	Y	Y	Y	Y	Y	Y
2. Restaurant	N	N	Y	Y	Y	Y	Y	Y
3. Mercantile/retail uses, except restaurants with seating which use more than twenty-five (25) percent of the gross area of a building.	N	N	Y	Y	Y	Y	N	N
4. Drive-in restaurant	N	N	N	N	N	N	N	N
5. Vending machines, entertainment devices, or arcade uses, except that vending machines shall be allowed in all districts on property owned or leased by the Town of Foxborough, or any board, committee or department thereof and where such property is used for municipal purposes	N	N	N	N	N	N	N	N
6. Commercial storage garages and motor vehicle repair shops	N	N	Y	N	BA	Y	Y	PB
7. Adult entertainment or uses (see Section 7.3)	N	N	N	N	N	N	N	PB
8. Kennels - commercial	N	N	N	N	N	N	PB	PB

D. Business, Service, or Office	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. All land and buildings which are used for the transaction of business, for the rendering of professional or tradesman services or for the other services that involve stocks of goods, wares, or merchandise in limited quantities for use incidental to business office uses or similar purposes, except for other uses specified in this Use Group D	N	N	Y	Y	Y	Y	Y	Y
2. Research and development facilities	N	N	PB	PB	PB	PB	PB	PB
3. Laundry or dry cleaning facilities	N	N	Y	N	N	Y	Y	Y
4. Junk yard, auto graveyard	N	N	N	N	N	N	N	N
5. Funeral establishments	N	N	Y	Y	Y	Y	Y	N
6. Massage parlors	N	N	N	N	N	N	N	N
7. Self storage mini-warehouse, rail storage or switching yards	N	N	Y	N	BA	Y	Y	N
8. Truck terminal/general commodity/public warehouse	N	N	PB	N	PB	PB	PB	PB
9. Automobile storage or automobile auction facilities	N	N	PB	N	PB	PB	PB	PB
10. Tattoo parlors	N	N	N	N	N	N	N	PB
11. All land and buildings which are primarily used for the sale of used or previously owned vehicles	N	N	N	N	N	N	N	N

E. Assembly	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. Theatres	N	N	Y	N	Y	Y	Y	Y
2. Nightclubs without theatrical stage accessories, designed for the use as dance halls, nightclubs, and for similar purposes	N	N	Y	N	Y	Y	Y	Y
3. Drive-in theaters	N	N	N	N	BA	N	N	N
4. Museums, with or without an auditorium in which persons assemble for amusement, entertainment or recreation, and incidental motion picture, dramatic or educational presentations, lectures or similar purposes	N	N	Y	Y	Y	Y	Y	Y
5. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y
6. Stadiums, coliseums or similar structures for indoor/outdoor assembly use	N	N	N	N	N	BA	BA	PB
7. Educational use, nonexempt	BA	BA	BA	N	BA	BA	BA	PB
8. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y
9. Child care center	Y	Y	Y	Y	Y	Y	Y	Y
10. Tractor trailer schools using public roads	N	N	N	N	N	N	N	N
11. Adult Entertainment Establishment	N	N	N	N	N	N	N	PB

F. Institutional	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. All land and buildings for housing people suffering from physical limitations including among others hospitals, sanitariums, infirmaries, orphanages, and institutions licensed by the Commonwealth of Massachusetts	BA	BA	BA	BA	N	N	N	PB
G. Residential	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Lodging, boarding house but not including group homes or halfway houses	BA	N	BA	N	N	N	N	N
2. Hotels, motels but not including group homes or halfway houses	N	N	N	N	PB	N	PB	PB
3. Dormitories	BA	BA	BA	N	N	N	N	N
4. Multi-family dwellings	PB	N	PB	N	N	N	N	N
5. Two (2) family dwelling	Y	PB	Y	N	N	N	N	N
6. Single family dwellings	Y	Y	Y	Y	N	N	N	N
7. Mobile homes/travel trailers park	BA	BA	N	N	N	N	N	N
8. Open Space Residential Developments	N	PB	N	N	N	N	N	N
9. Residential Compounds	N	PB	N	N	N	N	N	N
10. Planned Development Housing	N	PB	N	N	N	N	N	N
H. Agricultural Uses	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y	Y
2. Farm stand, nonexempt	N	BA	PB	BA	N	Y	Y	N
3. Commercial slaughtering; nonexempt	N	N	N	N	N	N	N	N
4. Cider mill or lumber mill	N	BA	N	BA	N	Y	Y	N
5. Fur farms; nonexempt	N	N	N	N	N	N	N	N
I. Public and Quasi-Public Facilities	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Cemeteries	BA	BA	N	BA	N	Y	Y	N
2. Essential services	Y	Y	Y	Y	Y	Y	Y	Y
3. Municipal facilities and structures necessary to the service of the Town, excluding storage yards, power plants, water, filter plants, sewage treatment plants and refuse facilities.	Y	Y	Y	Y	Y	Y	Y	Y
4. Telecommunications/Wireless Communication Facilities as a primary use	N	N	BA	BA	BA	BA	BA	BA
5. Telecommunications/Wireless Communication Facilities as an accessory use	BA	BA	BA	BA	BA	BA	BA	BA
6. Commuter rail stations, bus stations, and related or accessory structures and improvements	N	N	N	N	PB	PB	PB	PB
7. Municipal Recreation Facility	Y	Y	Y	Y	Y	Y	Y	Y

J. Recreational Use	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. Clubs such as golf clubs, country clubs, private club or lodge	BA	BA	BA	BA	BA	BA	BA	PB
2. Passive outdoor recreational uses such as beaches, parks, picnic groves, and other similar uses, but not including amusement parks	N	BA	N	BA	BA	Y	Y	PB
3. Low density recreational uses which predominantly occur within a building such as swimming, tennis, skating and other similar uses	N	N	BA	BA	BA	Y	Y	Y
4. Boat storage facility provided no construction or major repair shall be allowed other than necessary for the maintenance of boats owned by a proprietor or lessee	N	BA	N	BA	BA	Y	Y	PB
5. Commercial campgrounds	N	BA	N	N	N	N	N	N
6. Outdoor/Indoor recreational uses including, golf driving range, miniature golf course, batting cages, go-carts and bumper boats (except in Water Resource Protection Overlay District, where such uses shall be prohibited) but not including amusement parks	N	N	N	N	N	N	N	PB
7. Wellness and Recreation Center	PB	PB	PB	PB	PB	PB	PB	PB
K. Planned Development	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Planned Development – See section 9.1.8	N	N	N	N	N	N	N	PB
L. Accessory Uses	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. The storage (temporary or otherwise), sale or processing of any combustible or waste materials	N	N	BA	BA	BA	BA	BA	PB
2. Seasonal migrant workers quarters, mobile home or watchman's quarters as accessory uses to permitted Agricultural and Industrial uses	Y	Y	Y	Y	Y	Y	Y	Y
3. Residential accessory uses and structures. Gross area of residential storage structures shall not exceed 400 square feet or 1.5 stories; the gross area of temporary wayside stands shall not except 400 square feet	Y	Y	Y	Y	N	N	N	N
4. Residential garages which do not exceed one and a half stories in height and a "footprint" not to exceed one and a half stories in height and a "footprint" not to exceed 625 square feet.	Y	Y	Y	Y	N	N	N	N
5. Residential Garages which exceed one and a half stories in height or have a "footprint" larger than 625 square feet	BA	BA	BA	BA	N	N	N	N
6. Outdoor storage or overnight parking of buses, trucks or other vehicles whose Gross Vehicle Weight (GVW) as determined by Mass Registry of Motor Vehicles exceeds 10,000 pounds	N	N	Y	N	Y	Y	Y	Y

	R-15	R-40	GB	NB	HB	GI	LI	S-1
7. Accessory uses to multifamily dwellings which are located within the principal building and are limited to eating establishments, personal service establishments; retail sales establishments selling convenience merchandise	Y	Y	Y	N	Y	Y	Y	Y
8. Accessory structures to multifamily structures	BA	N	BA	N	BA	BA	BA	BA
9. Nonresidential accessory uses and structures which do not exceed fifteen percent (15%) of the gross area of the principal building or buildings	N	N	Y	Y	Y	Y	Y	Y
10. Home occupation	BA	BA	Y	Y	N	N	N	N
11. Keeping of livestock or horses on a parcel of land which is not greater than two (2) acres in area	BA	BA	BA	BA	BA	BA	BA	BA
12. Keeping of livestock or horses on a parcel of land which is greater than two (2) acres in area	Y	Y	Y	Y	Y	Y	Y	Y
M. Other Uses	**R-15**	**R-40**	**GB**	**NB**	**HB**	**GI**	**LI**	**S-1**
1. Electronic video or mechanical gambling machines or devices or similar games of chance involving the betting or wagering of money	N	N	N	N	N	N	N	N
2. Access ways (including no more than one limited access way through residential districts) and associated infrastructure including, but not limited to, drainage, sewer lines and utilities serving events licensed but the Board of Selectmen at stadium	N	Y	N	N	N	N	N	Y

within the Economic Development Area Overlay District								
3. Parking spaces beyond the requirements of the primary use(s) on the lot provided the spaces are constructed to the standards found in Article 7 of these By-Laws	PB	PB	Y	Y	Y	Y	Y	Y
4. Arcades	N	N	N	N	N	N	N	PB
5. All lands and buildings which are used for the sale of previously owned vehicles	N	N	N	N	PB	PB	PB	PB

3.1.7 Notes to Table of Use Regulations.

1. See Section 9.0 for further regulations applicable in all overlay districts. To the extent that the provisions of this Section 3.0 are in conflict, the provisions of Section 9.0 shall govern.

2. There shall be allowed no more than one such access way through a Residential District to serve such a stadium use, except that this limitation shall not apply to any emergency access way serving such stadium that is required by public safety officials of the Town of Foxborough. For (i) all National Football League (or successor) football games, (ii) soccer games, and (iii) six (6) other events, for which tickets will be made available for 50,000 or more attendees (the "Permitted Events"), the one limited access way through residential districts may be used pursuant to Site Plan approval granted by the Planning Board and shall be subject to limitations as to the time, and number and type of vehicles using said access way, pursuant to Section 9.5.10.5. For any other stadium event for which greater than 50,000 tickets will be made available, the Planning Board may allow the use of said limited access way through residential districts subject to the issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Board shall also review the day(s) of the week the access way is proposed to be open, the proposed hours of operation, the proposed number and types of vehicles to use it, and the general impacts on the neighborhood.

3. The Arcade must be located in separate room from the primary use and must be staffed by a dedicated employee of the business of the primary use when open. There must be at a minimum thirty (30) square feet net of floor space per machine in the arcade room. There shall be at least one (1) dedicated employee for every thirty (30) machines.

4. Considering a request for a Special Permit for the sale of used or previously owned vehicles, the Board shall employ the criteria found in Section 10.4 of these By-Laws. Among other concerns, it shall also consider the proximity of the use to residential dwellings, the proposed location relative to similar uses, the number of vehicles proposed for sale and the proposed landscaping, screening and buffering.

5. Any use that would be offensive, hazardous, or harmful to the neighborhood or to property in the vicinity by reason of blight, air, water or noise pollution, debris, salvage materials, junk, solid or liquid waste, danger of explosion or fire, electric or electronic interference, or conditions conducive to the breeding of insects and rodents is prohibited whether or not enumerated around the uses otherwise permitted in any district.

3.2 ACCESSORY USES

3.2.1 General. Accessory uses and structures shall be permitted or permitted by Special Permit as set forth in the Table of Use Regulations.

3.2.2 Home Occupation; Intensive. An intensive home occupation is permitted by Special Permit as set forth in the Table of Use Regulations in the principal residence or in an accessory building, subject to the following standards:

1. The business must not produce noise or other objectionable characteristics beyond the limits of the lot; and

2. The area devoted to the home occupation shall not exceed forty (40) percent of the habitable floor area of the principal dwelling; and

3. Necessary off street parking shall be provided; and

4. Not more than (2) persons may be employed, other than the family members; and

5. Storage of material or products outside of a principal building is prohibited; and

6. The making of external structural alterations which are not customary in residential buildings is prohibited.

3.3 TEMPORARY USES

3.3.1 Amusement or Recreation. Temporary uses for amusement and recreation shall require the issuance of a Special Permit from the Board of Selectmen, and may be subject to appropriate conditions.

3.3.2 Other. Except as provided for in Section 3.3.1, when the Board of Appeals finds that the

general health, safety or welfare of the Town will be served by allowing as a temporary use one that is not otherwise permitted, and where such use will not be in conflict with the purposes permitted in the district in which such use is situated and such temporary use may be permitted for a period of not more than one (1) year, without recourse of an extension of time, a Special Permit may be granted for same.

SECTION 4.0 DIMENSIONAL REQUIREMENTS

4.1 GENERAL REQUIREMENTS

4.1.1 Tables of Dimensional Requirements. All residential structures shall conform to the dimensional regulations set forth in Table 4-1. All nonresidential structures shall conform to the dimensional regulations set forth in Table 4-2.

Table 4-1 DIMENSIONAL REGULATIONS FOR RESIDENTIAL USES

DISTRICT/ USE	AREA (sq. ft.)	FRONTAGE (ft.)	YARDS (ft.)			BUILDING HEIGHT		MINIMUM LOT WIDTH (ft.)	
			Front	Side	Rear	Stories	Feet	Distance from Street	Width
R-15 & Two family									
Single and Two-Family	15,000	100	25	15	30	2.5	35	50	67
Multi-family									
First 3 units	32,250	100	50	25	75	2.5	35	100	67
Additional unit	6,125								
Non-residential uses	32,250	125	50	50	75	2.5	35	100	67
R-40 & NB									
Single family	40,000	200	35	15	30	2.5	35	100	134
Residential Compound			See Section 8.2						
Open Space Residential Development			See Section 8.3						
Planned Development – S-1 District			See Section 9.1.8						
Non-residential uses	40,000	200	50	50	75	2.5	35	100	134

4.1.2 Notes to Table 4-1.

1. When the side yard of a multi-family structure abuts a single or two-family structure or vacant land, the minimum side yard shall be twenty five (25) feet and the minimum frontage shall be one hundred twenty-five (125) feet.

2. No more than eight (8) dwelling units are allowed on a lot.

3. The total height of a structure shall not exceed either thirty five (35) feet or two and one-half (2.5) stories, whichever is greater.

4. All yard requirements shall be measured from the property line of the parcel

Table 4-2 DIMENSIONAL REGULATIONS FOR NONRESIDENTIAL USES									
DISTRICT	FRONTAGE (ft.)	YARDS (ft.)			BUILDING HEIGHT		MAXIMUM LOT COVERAGE	MINIMUM LOT WIDTH (ft.)	
		Front	Side	Rear	Stories	Feet		Distance from Street	Width
GB	0	15	0	20	2.5	35	85%	0	0
NB	25	50	10	35	2.5	35	75%	100	17
HB	100	50	25	50	3.0	40	70%	100	67
LI	50	50	25	50	3.0	40	70%	100	34
GI	50	50	25	50	3.0	40	70%	100	34
S-1	300	300	75	50	3.0	40	70%	150	200

4.1.3 Notes to Table 4-2.

1. When any front yard abuts a Residential District, it shall be a minimum of one hundred (100) feet except for nonresidential uses in the General Business District.

2. When a nonresidential use abuts a residential district, no off-street parking, storage of materials, or the display of goods is allowed within the required front yard except for nonresidential uses in the General Business District.

3. When any side or rear yard abuts a Residential District, it shall be a minimum of fifty (50) feet.

4. Height requirements can be increased pursuant to Section 4 of these By-Laws.

5. Minimum lot size within the S-1 District is 80,000 square feet.

6. Lots located in the S-1 District with frontage on streets other than Route One shall have a minimum of two hundred (200) feet of frontage.

7. See Section 9.1.8 for specific regulations pertaining to Planned Developments (PD S-1), and the creation of lots with one hundred (100) feet of frontage by Special Permit in the S-1 district.

8. All yard requirements shall be measured from the property line of the parcel.

9. Insofar as there may be inconsistencies between this Table 4-2 and the provisions of Section 9.5, the provisions of Section 9.5 shall govern.

4.1.4 One Dwelling Per Lot. Only one (1) dwelling structure shall be located on a lot, unless otherwise expressly permitted by these By-Laws.

4.1.5 Nonresidential Buildings. Two (2) or more nonresidential buildings may be located on a lot, provided that each building conforms to the dimensional and density requirements of these By-Laws. The lot shall meet minimum frontage requirements.

4.1.6 Yards. Every part of a required yard shall be open except for permitted accessory buildings or structures and the ordinary projection of sills, chimneys, ornamental features, and eaves, provided that no such projection shall extend into the minimum side yards more than twenty-four (24) inches. Unroofed entrance porches or terraces which do not rise above the height of the floor level of the ground floor may extend into a required yard space provided the area shall not exceed two hundred (200) square feet.

4.2 SPECIAL DIMENSIONAL REQUIREMENTS.

4.2.1 Required Yards. Accessory buildings or structures may occupy not more than twenty-five (25%) percent of the rear yard in any Residential District and not more than forty (40%) percent of the rear yard in any non-Residential District.

4.2.2 Swimming Pools. A swimming pool as an accessory use to a single or two (2) family dwelling may be located to within fifteen (15) feet of a side or rear lot line.

4.2.3 Accessory Structures to Multifamily Structures. Accessory structures to existing multi-family structures shall only be allowed by Special Permit from the Board of Appeals; provided, that if the structure is shown on a Special Permit application to construct a multifamily structure, it may be approved as a part of that application.

4.2.4 Corner Lot. The following shall apply to corner lots:

1. The required frontage for a corner lot shall be provided on only one (1) street.

2. No detached accessory building shall be erected closer to any street than the principal building on the lot.

3. Yards abutting upon streets shall be considered front yards.

4. At the intersection of two or more streets, no hedge, fence or wall higher

than three (3) feet, nor any obstruction to vision, shall be permitted on any lot within the triangular area formed by two (2) intersecting street lines bounding the lot and by a line connecting a point on each street line located twenty-five (25) feet from the point of intersection with the street lines.

4.2.5 Attached Garage. A garage or carport attached to any side of a dwelling and constructed as a part of the dwelling shall be considered as a part of the dwelling and shall meet all requirements for front, side, or rear yards, and height of structure which apply to the dwelling.

4.2.6 Storage Structure. A residential storage structure may be located to within five (5) feet of a side or rear lot line, while a detached residential garage shall be located a minimum of fifteen (15) feet from a side yard and thirty (30) feet from the rear lot line.

4.27 Swine. No structure for the shelter of swine shall be located within one hundred (100) feet of any property line nor shall any structure for the shelter of any other farm livestock be located within fifty (50) feet of any property line.

4.2.8 Gasoline or Oil Facility. No gasoline or oil facility shall be located within fifty (50) feet of any lot line.

4.3 ACCESS REQUIREMENTS.

4.3.1 Access Through Frontage Required. Access to all lots shall only be through or across its legal frontage. For corner lots, see Section 4.2.4. No "common driveways" are allowed unless otherwise provided for within these By-Laws.

4.3.2 Exception. During the subdivision control process, the Planning Board has the discretion to allow access to a lot where that portion of the street comprising the frontage of the lot will not be fully constructed due to the granting of a waiver of construction.

4.4 BUILDING HEIGHT

4.4.1 Exceptions. The height limitations of these By-Laws shall not apply to structures not used for human occupancy such as church spires, cupolas, chimneys, ventilators, skylights, water tanks, silos, necessary mechanical appurtenances usually carried above the roof level, such as elevator housings, nor to radio and television antennas.

4.4.2 Special Permit. Upon the granting of a Special Permit pursuant to the requirements set forth in Section 10.4, any principal structure, in any Nonresidential District, may be erected to a height in excess of that specified in Table 4-2 but shall not exceed sixty (60) feet, nor more than four (4) stories.

4.4.3 Controlling Provision. Insofar as the provisions of this Section 4.4 are in conflict with or are inconsistent with the provisions of Section 9.5, the provisions of Section 9.5 shall govern.

4.5 EXEMPTIONS.

4.5.1 Structures in the Public Interest. The following structures, which in the opinion of the Building Commissioner are obviously intended to be located in the public interest and are not incongruous with the aesthetic standards of the surrounding area, shall be exempt from the minimum yard requirements: telephone booths and pedestals, underground utility equipment, mailboxes, bus shelters, flagpoles, fences, retaining walls, trash disposal units, or any similar structures.

4.5.2 Eminent Domain. Where the Town of Foxborough or other governmental agency acquires an interest in land by eminent domain or otherwise that is adjacent to an existing public way for the purpose of constructing or widening of the public way or sidewalks, then the following provisions shall apply to lots or buildings affected by any such street widening or sidewalk acquisition:

1. If the area of the lot, which prior to such acquisition conformed to these By-Laws, is reduced to an area less than is required by Section 4.1.1, then the area of such lot remaining after such acquisition shall be deemed in conformity with these By-Laws.

2. If a yard setback of a building, which prior to such acquisition conformed to these By-Law, is reduced to a distance less than is required by Section 4.1.1, then the yard setbacks remaining after such acquisition shall be deemed to be in conformity with these By-Laws.

3. If the frontage of the lot, which prior to such acquisition conformed to these By-Law, is reduced to a frontage less than is required by Section 4.1.1, then the frontage of such lot remaining after such acquisition shall be deemed in conformity with these By-Laws.

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 APPLICABILITY. These By-Laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or Special Permit issued before the first publication of notice of the public hearing required by Massachusetts General Laws, Chapter 40A, Section 5 at, which these By-Laws, or any relevant part hereof, were adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

5.2 NONCONFORMING USES. The Board of Appeals may grant a Special Permit to change a nonconforming use in accordance with this Section 5.0 only if there is a finding that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the

neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

5.2.1 Change or substantial extension of the use; or

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

5.3 NONCONFORMING STRUCTURES. The Board of Appeals may grant a Special Permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section 5.0 only if there is a finding that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Changes to single and two-family structures shall be governed by Section 5.4, below. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

5.3.1 Reconstructed, extended or structurally changed; or

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

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

5.4 NONCONFORMING SINGLE AND TWO-FAMILY RESIDENTIAL STRUCTURES. Nonconforming single and two-family residential structures may be reconstructed, extended, altered, or structurally changed as of right upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure as long as such addition does not increase the habitable floor area of the original structure by more than twenty-five (25%) percent:

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

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

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

5.4.4 Increase in Nonconforming Nature. When the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change because the above-stated criteria do not apply, the Board of Appeals, if there is a finding, may allow such reconstruction, extension, alteration, or change provided that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.5 ABANDONMENT OR NON-USE. Any nonconforming use or structure that has been abandoned or not used for a period of twenty-four (24) months, shall lose its protected status and be subject to all of the provisions of these By-Laws; provided, however, that such use or structure may be restored to its protected status by Special Permit from the Board of Appeals.

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

5.6.1 Two Years. Reconstruction of said premises shall commence within twenty-four (24) months after such catastrophe or demolition.

5.6.2 As of Right. Buildings as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in gross floor area as the original nonconforming structure.

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

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

SECTION 6.0 GENERAL REGULATIONS

6.1 OFF-STREET PARKING AND LOADING REQUIREMENTS

6.1.1 Applicability. If any structure is constructed, enlarged or extended, or any existing use changed, off-street parking spaces shall be provided in accordance with Tables 6-1 and 6-2.

6.1.2 Relation to Use. Off-street parking spaces required under Table 6-1 shall be located as follows:

1. All required off-street parking spaces for residential or multi-family dwelling uses shall be located on the same lot as the use.

2. All required off-street parking spaces for all uses other than residential or multi-family dwelling uses shall be located on the same lot as the use or within five hundred (500) feet thereof. Contracts or easements for parking on other private property shall be presented to the appropriate board to ensure that parking spaces located within five hundred (500) feet of the lot will continue to be available. On street parking spaces and parking spaces within a municipal parking lot located within five hundred (500) feet of the lot, may be counted toward the off-street parking spaces required under Table 6-2.
3. New developments requiring Site Plan Review must provide the required accessible parking on site, unless spaces are available or made available within two hundred (200) feet of the new development.

6.1.3 Temporary Parking Lots. In those situations where temporary parking lots are allowed by Special Permit, the Special Permit Granting Authority (SPGA) may place limitations on the time, frequency and type of vehicles using such to diminish the impact on abutting residential uses. In no case shall a Special Permit be valid for greater than one (1) year from the date of its being granted by the SPGA.

1. The SPGA may also require specific design and construction standards be maintained, screening and buffers and yard setbacks of up to one hundred (100) feet from residential uses.

2. The SPGA may continue to accept applications and issue Special Permits for Temporary Parking Lots if they are no longer permitted in a Zoning District, provided the original Special Permit was issued prior to November 8, 2004 and the Special Permit has not lapsed more than one (1) year.

6.1.4 Minimum Off-Street Parking Requirements. Parking shall comply with Table 6-1:

Table 6-1 MINIMUM OFF STREET PARKING REQUIREMENTS

USE	ONE (1) SPACE PER
Storage and Shipping	1,500 gross square feet
Manufacturing and Processing	750 gross square feet
Retail stores and shopping centers 15,00 square feet and over	250 gross square feet
Retail stores and shopping centers under 15,000 square feet	175 gross square feet
Office Space (medical/outpatient	150 gross square feet
Office Space (nonmedical)	250 gross square feet
Office Space, as accessory use	300 gross square feet
Areas with /fixed seating: Theaters, Stadium	3 seats
Municipal Recreation Facility	6 Linear feet bench seating or per 4 seats
Museums, Libraries	550 net square feet
Restaurants, nightclubs, bars, recreation halls	100 net square feet
Outdoor Recreational Use	500 net square feet
Schools	4 per classroom
Hospitals, Nursing Homes	10 beds
Residential: Single & Two family	Dwelling Unit
Multi-family dwellings	2 per unit, plus 1 visitor space for every 4 units
Tourist Homes, Hotels, Etc.	Sleeping unit
Child care centers and Day Care Facilities	1 space for each full or part time employee and 1 space for each 4 children
Wellness and Recreation Center	175 gross square feet
Arcades	100 net square feet

6.1.4 Notes to Table 6-1.

1. Mixed uses shall be a sum of the combination of uses.

2. When a restaurant has provisions for "take-out" the Board of Appeals or Planning Board, as applicable, shall have the authority to require more than the minimum parking spaces stated herein.

3. The net area shall include the total square footage of area dedicated to the use, not including parking or access areas.

6.1.5 Reduction. The off-street parking requirements set forth in Table 6-1 may be reduced by up to twenty-five (25%) percent by the issuance of a Special Permit from the Planning Board as per the requirements of these By-Laws. Such a request may be made in conjunction with an application for Site Plan Review or part of a requested Special Permit for a specified land use. The Planning Board shall

review and consider the following criteria when reviewing a request:

1. A stamped site plan (to scale) must be submitted that illustrates the physical ability to locate and construct all of the required off-street parking and associated infrastructure on the site. The preferred parking layout with the requested number of spaces shall be clearly delineated.

2. A written narrative shall be submitted detailing the reasons or circumstances as to why the required numbers of spaces are not necessary for the proposed land use.

3. Other relevant issues that should be considered when reviewing the reduction request should be detailed or noted on the plans. These may include, but are not limited to, environmental impacts, proximity to residential uses, impacts to historic or other resource areas and lighting.

4. Any other relevant information as required by the Planning Board.

6.1.6 Standards; Parking Areas with More than Five (5) Spaces. All parking areas containing over five (5) spaces shall be subject to the following:

1. Automobile parking stall spaces shall be suitably marked and shall conform to the requirements found in Table 6-1.

2. All parking areas shall be screened on each side which abut or are across from the side or rear lot line of a lot situated in any Residential District pursuant to Section 6.4, Screening and Buffers.

3. All parking areas and access driveways thereto shall be surfaced with bituminous concrete or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.

4. Bituminous concrete curb or berm shall be placed at the edge of surfaced area, except driveways.

5. Bumper strips, a minimum of six (6) feet in width and suitably landscaped with trees or shrubs a minimum of six (6) feet in height (measured from the 'top of the ball'), shall be provided between every six (6) rows of parking spaces. Additional bumper strips may be required by the appropriate board in the interest of public safety, cross traffic or improved pedestrian access.

6. Buffer strips between a parking lot and sidewalk shall be at least five (5) feet in depth and suitably landscaped.

7. Adequate illumination of driveways and lanes shall be provided.

8. Any fixture used to illuminate a parking area shall be so arranged as to direct the light away from the street and away from abutting or nearby premises used for residential purposes.

6.1.7 Location.

1. All parking lots for multi-family dwellings shall be located not less than twenty (20) feet from the structure. Private driveways and garages for individual units within a multi-family dwelling may be counted as required parking spaces and may be located within twenty (20) feet of the structure.

2. All nonresidential parking spaces shall be at least ten (10) feet from any building.

3. Parking spaces shall be so arranged as not to permit backing of vehicles onto any street.

4. All driveways and access lanes shall not be located closer than forty (40%) percent of the total frontage measurement of said lot (using a measurement from the center of the curb radius) from the closest intersection with any street. In any case, this distance shall not be less than fifteen (15) feet and the driveway shall be designed in a manner conducive to safe access and egress.

5. No two (2) driveways or access lanes, either on the same lot or adjoining lots, shall be located within twenty (20%) percent of the total frontage measurement of the lot from each other at their intersections (center of curb radii) with the front lot line; provided, that this distance shall not be less than ten (10) feet.

6. Residential driveways shall not exceed twenty-four (24) feet in width at the intersection with the front lot line. Curb cuts shall not exceed twenty-six (26) feet in width.

7. Nonresidential driveways or access lanes shall be a minimum of twenty-six (26) feet in width at the intersection with the front lot line. The maximum curb cut shall not exceed forty (40) feet in width unless otherwise required by nonlocal regulations.

6.1.8 Restrictions.

1. There shall not be any vehicle repair activities within the required parking areas.

2. There shall not be any storage of materials or equipment or display of merchandise within required parking areas.

3. Parking spaces or internal driveways shall not be allowed within the required areas for screening, buffers or landscaping.

6.1.9 Parking Lot Dimensions. Parking lots with more than five (5) spaces shall conform with the following Table 6-2

6.2 OFF-STREET LOADING

6.2.1 Applicability. Each business or industrial use shall provide at the side or rear of the lot, access and space for the loading and unloading of delivery vehicles.

6.2.2 Standards.

1. Loading docks and truck terminal loading areas shall have a minimum depth of one hundred and twenty (120) feet unless otherwise provided for herein.
2. Each loading berth shall be a minimum of fourteen (14) feet wide and shall be located so as not to interfere with pedestrian access or required parking areas.

6.2.3 Reduction. For those uses where it can be proven that tractor trailers will not be providing service, the appropriate board may reduce the depth of the loading area.

6.3 SIGNS

Deleted by Article 23 of the May, 1995 Annual Town Meeting. The Sign By-Law is set forth in Section 15B of the Foxborough General By-Laws.

Table 6-2 PARKING LOT DIMENSIONAL REQUIREMENTS

Angle of Parking	Stall Width	Stall Depth	Access Lane Width
0 deg	9'-0"	12'-0"	12'-0"
30 deg	9'-0"	16'-6"	11'-0"
45 deg	9'-0"	19'-0"	13'-0"
60 deg	9'-0"	20'-6"	18'-0"
90 deg	9'-0"	18'-0"	24'-0"

6.4 SCREENING, BUFFERS AND LANDSCAPING

6.4.1 Purpose. Screening, buffers and landscaping shall be required as provided for herein for the following purposes:

1. To preserve the peace and tranquility of residents;
2. To prevent unsightly vistas;
3. To enhance the aesthetics of sites and to create visual buffers between specified land uses and residential abutters

6.4.2 Applicability. Screening, buffers and landscaping shall be required for all nonresidential land uses, all multi-family structures and within Open Space Residential Developments (OSRD). These requirements shall apply to new construction or any expansion or addition to any of these uses.

1. Screening, buffers and landscaping within OSRD's shall be regulated by the provisions of Section 8.3.

Insofar as the provisions of this Section 6.4 are in conflict with or are

2. inconsistent with the provisions of Section 9.5, the provisions of Section 9.5 shall govern.

6.4.3 Location. Screening, buffers and landscaping shall be located within the required yards of nonresidential and multi-family land uses. These yard setbacks are detailed in Tables 4-1 and 4-2 of these By-Laws.

6.4.3 Waiver or Modification. Screening and buffering requirements may be waived or modified by the appropriate board if a naturally dense vegetative area, suitable topography or a combination of the two exists at the time of development (and is to be maintained) within the area where screening and buffering is required. Should such naturally dense vegetative area die or be significantly reduced, it shall be replaced or enhanced by a landscaped buffer in accordance with the requirements noted herein.

1. Existing vegetation or topography on the site which is required to be preserved shall be clearly identified on a plan, physically marked on the site and prevented from being removed or disturbed.

6.4.4 Use Requirements; Abutting Residential. When a nonresidential land use or multi-family dwelling abuts a residential zoning district or is to be located on a public or private way across from a residentially zoned district, screening, buffers and landscaping shall be required as follows:

1. Within the required side or rear yards, a screening and buffer strip shall be a minimum of twenty (20) feet in width parallel to the property line and shall contain a screen of plantings. This screen shall contain individual shrubs or trees planted six (6) feet on center in at least two (2) staggered rows and six (6) feet in height (from the "top of the ball") at the time of occupancy. At least fifty (50%) percent of the shrubs or trees shall consist of evergreens.

2. Within the required front yard, a landscape strip shall be a minimum of thirty (30) feet in depth parallel to the property line and shall contain a mix of plantings. At a minimum, this area shall contain landscaping in the form of plants, shrubs or trees. The construction of an earthen berm suitably landscaped may also be allowed. The intent of this provision is to provide an aesthetically pleasing buffer/landscaped area while allowing nonresidential uses visibility from the street.

6.4.5 Use Requirements; Abutting Nonresidential. When a nonresidential use or multi-family dwelling abuts another nonresidential use or multi-family dwelling, screening, buffers and landscaping shall be required as follows:

1. Within the required side or rear yards, a screening and buffer strip shall be a minimum of ten (10) feet in width parallel to the property line. It shall contain shrubs or trees planted six (6) feet on center not less than six (6) feet in height (from the 'top of the ball') at the time of occupancy. At least fifty (50%) percent of the shrubs or trees shall consist of evergreens and shall thereafter be maintained by the owner or occupant to provide a dense screen year round.

2. Within the required front yard, a landscape strip shall be a minimum of fifteen (15) feet in depth parallel to the property line and shall contain a mix of plantings. This area shall contain landscaping in the form of plants, shrubs or trees. The construction of an earthen berm suitably landscaped may also be allowed. The intent of this provision is to provide an aesthetically pleasing landscaped area while allowing nonresidential uses visibility from the street.

3. If merchandise, goods or other materials are to be displayed or stored in a front yard, or if off-street parking is proposed for the front of a structure, the landscaped strip shall be increased to twenty-five (25) feet in depth. No merchandise, goods or other materials are to be displayed or stored or vehicles parked within the required landscaped strip.

6.4.6 Exception. The provisions of Sections 6.4.4 and 6.4.5 shall not apply to uses within the General Business (GB) District as there is no required side-yard setback and only a fifteen (15) foot front yard requirement within this district. Where possible, a five (5) foot landscaped strip shall be located in the required front yard of uses within the GB District.

6.4.7 General Provisions.

1. The erection and maintenance of a solid wall or fence complemented by suitable plantings or landscaping may be allowed in lieu of the requirements for screening and buffering in side yards. The appropriate board must make a determination that such replacement will require minimal long-term maintenance and will fulfill the purpose of this Section 6.0.
2. No building, structure or parking area (paved or not paved) may occupy the required area for screening, buffers or landscaping.

3. Any part of a project area for a nonresidential or multi-family land use(s) that will be disturbed during construction and that is not employed for buildings, parking, loading, access ways or pedestrian walks shall be permanently stabilized and landscaped. Grass, trees, shrubs, evergreen ground cover, stone or wood material(s), or a combination thereof may be employed as approved by the appropriate board.

4. Exposed slopes with greater than a 2:1 grade shall be permanently stabilized with vegetative ground cover. Exposed slopes 3:1 or less may be treated with mulch or a similar landscaping product.

5. There shall be a landscaped buffer strip comprising a minimum of fifty (50) feet of the front yard and twenty (25) feet of the side yard for all uses in the Special Use (S-1) District. Insofar as there may be inconsistencies with other Sections, these restrictions shall apply in the S-1 District in all cases.

6.5 PERFORMANCE STANDARDS

6.5.1 Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing any grade changes and vegetation and soil removal.

6.5.2 Off Street Parking and Loading. The plan shall comply with Section 6.1 of these By-Laws. Unless otherwise allowed by the Planning Board, construction materials and standards not specified within Section 6.1 shall be consistent with those found within the Foxborough Subdivision

Regulations. Provisions shall be made to accommodate areas for snow storage.

6.5.3 Circulation. Driveways and internal circulation shall be safe, adequate and convenient for automotive as well as pedestrian and bicycle traffic. Site distances, driveway widths, grade, location, drainage, signage, islands, and other control structures, curb radii and intersection angles shall all be provided for review. The Planning Board reserves the right to require certain driveways to meet the road standards found in the Foxborough Subdivision Regulations.

6.5.4 Site Access. The Planning Board shall evaluate the safety of motorists, bicyclists, and pedestrians utilizing the site and the roadways leading into the site. To ensure the public's safety the Planning Board may require sidewalks or pedestrian paths within and between developments. The Planning Board may also require the connection of adjacent properties via the use of common drives.

6.5.5 Architectural Requirements. Consideration shall be given to ensure that buildings are appropriate in scale, massing height, roofline, and building materials to ensure that the architecture shall be in harmony with the surrounding neighborhood and the Town. Rooftop mechanical installation shall be hidden from view from the street or adjoining properties.

6.5.6 Screening, Buffers and Landscaping Requirements. The plan shall comply with Section 6.4 of these By-Laws. Plants should be indigenous to the area or be able to survive New England winters. Salt tolerant varieties shall be planted along roadways and parking areas.

6.5.7 Lighting. Lighting shall be designed to enhance public safety and provide for adequate and appropriate outdoor lighting. The design shall not produce unwanted glare, light trespass on abutting properties or an over illumination of the site.

6.5.8 Service Areas. Service areas and delivery locations shall be located so that delivery vehicles are parked outside the street right-of-way or on-site driveways. All service areas, dumpster and trash receptacle locations, and other similar uses shall be screened from the street and from public view. They may be screened through a variety of materials such as walls, fences, plantings or a combination of these materials.

6.5.9 Utility Service. All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical, cable and telephone lines shall, whenever practicable, be placed underground.

6.5.10 Drainage. Detailed drainage design and computations shall be provided in conformance with the Massachusetts Department of Environmental Protection Storm Water Management Handbook Volumes 1 and 2. Closed drainage systems shall be designed for a twenty-five (25) year storm event. Culverts, detention basins, and infiltration systems shall be designed for one hundred (100) year events. Post development drainage rates shall not exceed pre-development levels. Within the Water Resource Protection Overlay District, special attention shall be made to ensure water quality. Easements shall be shown on the plan. If they are to be granted to the Town a written description of such for recording purposes is necessary.

6.5.11 Off Site Improvements. The Planning Board may require applicants to make off-site improvements to public roads or other community facilities, or to make payments for the reasonable costs associated with the impacts of the proposed development. Such improvements may include but are not limited to the widening of streets and improvement of intersections providing access to the site; the installation of curb and sidewalks along streets serving the site; and drainage improvements necessitated by the development of the site.

6.5.12 Public Safety. Buildings and adjacent grounds shall permit easy access and operation by fire, police and other emergency personnel and equipment.

SECTION 7.0 SPECIAL REGULATIONS

7.1 MUNICIPAL CONVERSIONS

7.1.1 Purpose. The intent of this Section 7.0 is to administer the conversion of municipally-owned property in a manner that will be in harmony with the intent of these By-Laws and that will ensure the integrity of abutting neighborhoods.

7.1.2 Applicability. No sale, lease or occupancy agreement to use municipally owned property (except for land located within the Economic Development Area Overlay District) shall be concluded prior to the Board of Selectmen issuing a Municipal Conversion Permit.

1. The issuance of a Municipal Conversion Permit shall not relieve the applicant from complying with other requirements of these By-Laws, including Site Plan Review.

7.1.3 Procedures. Five (5) copies of an application for a Municipal Conversion Permit shall be submitted to the Board of Selectmen. Applications shall be accompanied by plans, exhibits and other information considered necessary by the Board of Selectmen. All applications shall include, but not be limited to the following:

1. A detailed description and site plan of the proposed use.
2. The number of employees or residents which shall be retained or housed on the site.
3. Projections of traffic flows and proposed access/egress provisions.
4. Other concerns which the Board of Selectmen may consider necessary and appropriate.

7.1.4 Public Hearing. Upon the receipt of an application, the Board of Selectmen shall post a notice for a public hearing pursuant to Section 10.4. Copies of the application shall be transmitted to the Building Commissioner, Planning Board, Conservation Commission and the Board of Health while one copy is retained by the Board of Selectmen. The Board of Selectmen shall conduct a public hearing within twenty-one (21) days from the receipt of an application.

7.1.5 Permit Required. No sale, lease or occupancy agreement shall be concluded prior to the Board of Selectmen issuing a permit or until twenty-one (21) days have elapsed from the date of the public hearing.

7.1.6 Conditions. The Board of Selectmen may set conditions or impose further restrictions as they consider necessary on any permit to meet the intent and requirements of these By-Laws.

1. The Board of Selectmen may prohibit any particular use, even though the use may be permitted by the underlying zoning.

7.2 WIRELESS COMMUNICATIONS FACILITIES

7.2.1 Purpose. The purpose of this Section 7.2 is to:

1. Minimize adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; and

2. Minimize the overall number and height of such facilities to only what is essential; and

3. Promote shared use of existing facilities to reduce the need for new facilities.

7.2.2 General Requirements.

1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter, or antennae, shall be erected or installed except in compliance with the provisions of this Section 7.2. Unless otherwise noted herein, a Special Permit is required from the Board of Appeals. Section 10.5 of these By-Laws shall not apply to an application for any such Special Permit. Any proposed extension in the height or construction of a new or replacement facility shall be subject to a finding by the Board of Appeals that such extension or construction shall not be substantially more detrimental than the existing structure or use to the neighborhood. The Building Commissioner shall review petitions for the addition of cells, antennae or panels to existing monopoles or towers and shall allow such without a new hearing provided the additions comply with the intent of this Section 7.2.

2. Only freestanding monopoles, with associated antennae and/or panels are allowed as specified in Section 7.2.4, below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

3. Wireless communications monopoles and associated facilities shall only be located in Non-Residential Districts and shall be suitably screened from abutters and residential neighborhoods.

4. Panels, antennae and associated equipment may be approved as accessory uses in Residential Districts. The intent of this provision is to allow such facilities to be located in or on structures appropriately screened and/or camouflaged pursuant to this Section 7.2.

5. Antennae and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt from this Section 7.2.

6. Structures shall be removed within one (1) 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 Building Commissioner by the Special Permit holder.

7.2.3 Application Process. All applications for wireless communications facilities, antenna or satellite dishes shall be made and filed on the applicable application form in compliance with the Board of Appeals Application Instructions. For an application to be considered complete, ten (10) copies of the following information must be submitted:

1. A locus plan at a scale of 1"=1000' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five-hundred (500) 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 antenna, 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, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.

4. If applicable, a written statement 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. The applicable review and advertising fees as noted in the application guidelines.

7.2.4 Design Standards. The following standards shall be used when preparing plans for the siting and construction of all wireless communications facilities.

1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole.

2. No monopole or attached accessory antenna on a monopole shall exceed one hundred-twenty (120) feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings.

3. The height of antennae or dishes located on residential buildings or in the yards of residential structures shall not exceed the tree line on the lot. However, the height of antennae for federally licensed amateur radio operators may be increased to accommodate radio communications.

4. Antennae or dishes located on nonresidential buildings shall not exceed ten (10) feet in height above the roofline of the structure.

5. All wireless communications 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.

6. Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antennae 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.

7. Wireless communications 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 which will be required to be located within the community.

8. All monopoles shall be located a minimum of five hundred (500) feet from the nearest residential structure.

9. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire.

10. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with the Sign By-Law (Section 15B of the Foxborough General By-Laws).

11. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

12. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

7.2.5 Special Permit Review. Applications for Special Permits may be approved or approved with conditions if the petitioner can fulfill the requirements of this Section 7.2 to the satisfaction of the Board of Appeals. Applications for Special

Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.

1. When considering an application for a wireless communication facility, the Board of Appeals shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed uses(s).

2. When considering an application for an antenna or dish proposed to be placed on a structure, the Board of Appeals shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and streets(s).

7.3 ADULT ENTERTAINMENT AND USES

7.3.1 Findings. Secondary effects of adult entertainment and uses and have been found by the Planning Board to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on property values of residential and commercial properties and adverse impacts on the quality of life in the Town. This was determined after a review of studies provided to the Planning Board and after soliciting public commentary.

7.3.2 Purpose and Intent. It is the purpose and intent of this Section 7.3 to address and mitigate the secondary effects of Adult Uses as defined and referenced herein. The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative, sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment or uses protected by the Constitutions of the United States of America and the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to see, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

7.3.3 Definitions. See Section 11 - "Adult Entertainment and Uses."

7.3.4 Special Permit Required. No Adult Use shall be allowed except by a Special Permit granted by the Planning Board. The Board may grant a Special Permit for an Adult Use, with such conditions as it deems appropriate for the protection of public health, safety, and welfare only if the use is found by the Board to comply with the standards set forth below, and the requirements noted in Section 9.1.5 and Section 10.4 of these By-Laws.

7.3.5 Location. An adult use may not be located:

1. Within seven hundred fifty (750) feet of a boundary line of a residential zoning district; or

2. Within seven hundred fifty (750) feet of a lot line of any lot containing a church, public school, private kindergarten or school, licensed day-care facility, park, playground, library, cultural facility (including stadiums), museum, elderly housing, assisted living facility, nursing home, or adult day-care facility; or

3. Within seven hundred fifty (750) feet of a lot line of any lot containing an establishment licensed under the provisions of General Laws Chapter 138, Section 12; or

4. Within five hundred (500) feet of any other Adult Entertainment Establishment or Use; or

5. Within seven hundred fifty (750) feet of the Washington Street layout lines.

7.3.6 Standards.

1. The mercantile/retail restriction found in Section 9.1.3 shall not apply to Adult Uses.

2. Signs for an Adult Entertainment Establishment or Adult Use must meet the dimensional requirements of Section 15B of the Foxborough General By-Laws. No sign, advertisement, display or other promotional material that contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public or private way, sidewalk, highway or railway.

3. If the Adult Use allows for the showing of films or videos within the premises, the booths in which the films or videos are to be viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.

4. No Special Permit for an Adult Use shall be issued to any person convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28.

5. Any Special Permit issued under this Section 7.3 shall require that the owner of such adult use shall supply on a continuing basis to the Building Inspector any change in the name of the record owner or address or any change in the name of the current manager; and that failure to comply with this provision shall result in the immediate revocation of such Special Permit,. If anyone so identified is or is found to be convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28, such Special Permit shall immediately be null and void.

6. No Special Permit issued under this Section 7.3 shall become valid or in full force and effect unless and until the owner of the property containing such Adult Use shall provide to the Zoning Enforcement Officer proof of the recording of said Special Permit with the Norfolk County Registry of Deeds.

7. Any Adult Use in existence prior to the adoption of this Section 7.3 shall apply for a Special Permit within ninety (90) days following the adoption of this Section and shall be required to comply in all respects with these requirements.

7.3.7 Special Permit Application. A completed application must be submitted pursuant to the Planning Board's Special Permit Rules and Regulations (on file and available at the Town Clerk and Planning Office). The completed application must also include:

1. Name and address of the legal owner of the proposed establishment or use;

2. Name and address of all persons having a lawful, equity or security interest in the Adult Establishment or Use;

3. A sworn statement stating that neither the applicant nor any person having a lawful, equity or security interest in the Adult Establishment or Use has been convicted of violating the provisions of Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28;

4. Name and address of the manager of the Adult Establishment or Use;

5. Proposed provisions for security within and without the Adult Establishment or Use;

6. The number of employees; and

7. The present and proposed physical layout of the interior of the Adult Establishment or Use.

7.3.8 Procedures.

1. A public hearing will be held pursuant to the requirements of Massachusetts General Laws, Chapter 40A, Section 11.

2. A decision will be rendered by the Planning Board within the time frames and guidelines noted in Massachusetts General Laws, Chapter 40A, Sections 9 and 11, respectively.

SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

8.1 SINGLE FAMILY CONVERSION

8.1.1 Special Permit Required. The conversion of an existing single-family structure into a two-family structure shall only be allowed by the granting of a Special Permit by the Planning Board per the requirements of these By-Laws. The criteria listed herein shall be fulfilled prior to the granting of a Special Permit.

8.1.2 Preexisting Structure Required. Any home under consideration shall be occupied for a minimum of two (2) years prior to the consideration of a Special Permit.

8.1.3 Dimensional Requirements. All dimensional yard requirements of these By-Laws shall be met or relief from such granted. This shall apply to the existing structure and any proposed additions.

8.1.4 Style. Any external changes or additions shall blend into the architectural and physical style of the existing structure to the satisfaction of the Planning Board. All additions shall share a common living area wall with the primary structure. The structure shall retain the visual appearance of a single family dwelling when viewed from the front yard(s).

8.1.5 Footprint. The footprint of the structure shall not be increased by more than twenty (20%) percent.

8.1.6 Parking. Adequate parking for two (2) additional vehicles shall be provided. Said parking shall not be obtrusive and shall comply with all zoning regulations, and shall also be screened if required by the Planning Board.

8.1.7 Screening. The Planning Board reserves the right to require screening between any addition(s) and immediate abutters. Landscaping for any new addition(s) may also be required. All necessary state and local permits and requirements shall be adhered to and shall not compromise any of these regulations.

8.1.8 Owner Occupancy. The building or structure in which the additional unit is located shall be occupied by the owner.

8.1.9 Entrance. The additional unit shall share a common entrance with the existing structure.

8.1.10. Water Resource Protection Overlay District. Within the Water Resource Protection Overlay District, the design sewage flow shall not exceed the design sewage flow requirements established by Section 9.4 for Zone II and Zone III, and no Special Permit may be granted to exceed this flow for a nonconforming structure.

8.2 RESIDENTIAL COMPOUNDS

8.2.1 Purpose. The purpose of this Section 8.2 is:

1. To govern the subdivision of land within the R-40 Residential and Agricultural District into not more than four (4) lots,

2. To require a lower density of housing on the site than is normally allowed with a conventional subdivision,

3. To eliminate the Town's costs for road maintenance, lighting and future rebuilding and,

4. To minimize construction in or near environmentally sensitive areas.

8.2.2 Special Permit Required. A Residential Compound may only be authorized under a Special Permit granted by the Planning Board. Subdivision approval, pursuant to Massachusetts General Laws, Chapter 41, Section 81K-81GG, also shall be required.

8.2.3 Private Ways. All access ways shall be privately owned and shall remain as such.

1. All maintenance, including snow removal, street lighting, repaving and similar activities shall be the responsibility of the abutters to the private way.
2. The applicant shall propose the method to be used to ensure that the private way shall remain privately owned and that the abutters shall remain responsible for its maintenance (i.e. a home owner's association or similar entity should be considered).

8.2.4 Water Resource Protection Overlay District. All lots shall exceed the minimum requirement of 40,000 square feet or 60,000 square feet if the lot is within the WRPOD.

8.2.5 Standards.

1. The total number of lots shall be less than the number of lots allowed in a conventional subdivision of the land.

2. In granting the Special Permit, the Planning Board may authorize a reduction in lot frontage. The lot frontage may be reduced to fifty (50) feet on a public way (existing or proposed). The intent is to create better-shaped lots and to eliminate "strips" of useless frontage.

3. The Planning Board has the authority to impose construction standards found in its subdivision regulations. However, it also has the discretion to waive/reduce the following standards in exchange for the required reduction in density within the subdivision and/or other public amenities: underground utilities; sidewalk requirements; pavement widths; cul-de-sac width and construction; berms; and drainage.

4. All private ways shall have a fire hydrant located pursuant to the Board of Water & Sewer Commissioners requirements, which hydrant shall be owned and maintained by the Town.

5. No future extension of the access road is permitted unless there is adherence to the provisions of Massachusetts General Laws, Chapter 81, Section 81W.

8.2.6 Application Process.

1. A pre-application preliminary/concept plan review and hearing with the Planning Board is required. The intent is to allow the Planning Board the opportunity to review the proposal prior to the Special Permit process, and to allow the Planning Board to familiarize the applicant with the submittal/review process.

2. Eleven (11) stamped copies of a preliminary set of plans shall be submitted to the Planning Board. The plans shall illustrate the proposed building lots and shall conform to Section 3.01 of the Foxborough Subdivision Regulations. Such plans shall be prepared and stamped by a registered, professional engineer or surveyor.

3. A list of requested waivers pursuant to the Foxborough Subdivision Regulations shall be submitted.

4. The Planning Board shall hold a public hearing within twenty-five (25) days from the date of submittal and shall vote on such within twenty (20) days after the hearing.

5. If the Planning Board approves the preliminary concept plan, the Planning Board, insofar as practical under the law, may allow the submittal of a combined Special Permit and definitive subdivision plan. A combined submission will not be authorized in those cases where the Planning Board disapproves the preliminary/concept plan.

8.2.7 Contents of the Special Permit Application. The Special Permit application to construct a Residential Compound, accompanied by eleven (11) copies, shall include a plan prepared in accordance with the requirements for a definitive subdivision plan as set forth in Section 3.02 of the Foxborough Subdivision Regulations. Final approvals will include definitive subdivision approval, and a special permit. At a minimum the applicant shall include the following information.

1. Documentation which shall be used to create a Homeowner's Association or similar entity to own and maintain the private way once the developer/applicant completes the subdivision.

2. A description of the method which will be employed to provide for the orderly transfer of the ownership of the access way to the above entity/ home owner's association.

3. A copy of a restrictive covenant(s) which shall prohibit further subdivision and shall absolve the Town from any present or future maintenance responsibilities for the private way.

8.2.8 Special Permit Decision. Before acting on a Special Permit application, the Planning Board shall conduct a public hearing in accordance with the provisions of these By-Laws.

1. The Planning Board may grant a Special Permit under this Section 8.2 only if it finds that: the proposed Residential Compound will be in harmony with this Section; that it will be of a benefit to the community; that it will utilize the site in a more environmentally suitable manner than a conventional plan for the site; and that the number of lots shown is less than that allowed under a conventional plan. The burden of proof shall be upon the applicant in determining the allowable number of building lots. The Planning Board reserves the right to challenge the status of any lot.

2. The Planning Board may impose any conditions, and/or safeguards that further the purpose of this Section 8.2.

3. A condition of the Special Permit shall be the recording of the required covenant at the Norfolk County Registry of Deeds.

4. No certificates of occupancy shall be issued by the Building Commissioner until the Planning Board has certified that the site has been constructed in accordance with the approved plan and that the required documentation is in place for the private way to be maintained as a private way.

5. For the purposes of the Special Permit lapse provision found in Section 10.4.6 of these By-Laws, the recording of the approved definitive subdivision plan with the Norfolk County Registry of Deeds or Registry District of the Land Court authorizing the construction of a way for a Residential Compound shall be considered substantial use of the Special Permit granted under this Section. The Planning Board has the discretion to regulate the time to complete the subdivision through the required covenant.

8.2.9 Revisions to Special Permit. Subsequent to the granting of a Special Permit, the Planning Board may permit the relocation of lot lines within the Residential Compound; provided that any changes in overall density or street layout will require further review and a public hearing.

8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT

8.3.1 Purpose. The purpose of this Section 8.3 is:

1. To permit maximum flexibility and creativity in design for the development of single- family subdivisions that will be superior to conventional plans;

2. To promote the most harmonious use of the land's natural features, resources and topography, which will promote the general health and safety of the public;

3. To discourage sprawled development, minimize environmental disruption, and provide a shorter network of streets and utilities which will promote a more efficient distribution of services; and

4. To encourage the preservation of open space by permanently preserving open and wooded areas within the parcel.

8.3.2 Special Permit Required. Open Space Residential Development may be authorized only by a Special Permit as granted by the Planning Board.

8.3.3 General Requirements.

1. Tracts of land consisting of a minimum of seven and one-half (7.5) acres may be developed as an Open Space Residential Development (OSRD)

2. The number of building lots may not exceed the number of building lots of the tract as permitted by Board of Health and Conservation Commission regulations, existing zoning and a conventional subdivision per the Foxborough Subdivision Regulations ("subdivision regulations").

3. For parcels situated in a Primary Resource Area, the maximum number of building lots allowed in the Special Permit definitive plan filing shall be determined by compiling the total sewage flow allowed for the total upland area within each of the building lots as approved in the conventional, preliminary plan. Minimum lot sizes of 30,000 square feet of upland area shall be required in these areas.

4. For parcels situated in Zone III of the Water Resource Protection Overlay District (WRPOD) the maximum number of building lots allowed in the Special Permit definitive plan filing shall be determined by compiling the total sewage flow allowed within each of the building lots as approved in the conventional, preliminary plan. Minimum lot sizes of 20,000 square feet shall be required in these areas.

5. All lots and structures shall comply within the dimensional requirements of Table 8-1. Whenever possible, the Planning Board will require septic systems and housing units to be located outside of those areas protected by the WRPOD Zone II regulations.

8.3.4 Dimensional and Design Requirements.

1. The requirements noted in Table 8-1 shall apply to all lots and dwelling units located within an OSRD. All accessory structures and uses shall comply with the requirements of Section 4 of these By-Laws unless otherwise provided for herein. Within those areas governed by the WRPOD Zone II regulations, the minimum building lot area shall be "upland" as defined in Massachusetts General Laws, Chapter 131. Each dwelling unit shall have sufficient parking for two (2) vehicles.

Table 8-1 OSRD DIMENSIONAL REGULATIONS							
Min. Lot Dimensions	**Minimum Yard Dimensions**		**Minimum Distance Between Structures (ft.)**			**Maximum Building Height**	
	Square Feet	**Feet**					
District	**Area**	**Frontage**	**Front**	**Side**	**Rear**	**Stories**	**Feet**
R-40	20,000	50	20	15	25	2.5	35
Minimum Requirements within Zone II of the WRPOD							
R-40	30,000	50	20	15	25	2.5	35

2. Lots approved at the preliminary plan stage may be located on existing streets in the Special Permit filing and shall comply with the requirements of Table 8-1.

3. Strong emphasis shall be placed upon preserving and integrating the existing topography, natural features (such as rock outcrops, specimen trees and clumps of trees) and man-made features such as stonewalls into the plan.

4. The Planning Board may place limitations on the types and location of accessory structures which may be located within the buffer strips. Existing/proposed screening, distances between the OSRD and existing abutters, and topography shall all be considered. The intent is to minimize impacts on existing abutters. A deed restriction may be required if such limitations are applied.

5. Swimming pools may not be located within thirty (30) feet of a property line of an existing single-family dwelling abutting the OSRD. The Planning Board may increase this distance after considering those items noted in subsection 4, above.

8.3.5 Screening and Buffering. The intent of this provision is to ensure and preserve the visual privacy between abutting dwellings and new lots within the OSRD. To accomplish this, fifty (50) feet of screening & buffering is required in those locations where dwellings abut the OSRD. This is in addition to the required twenty-five (25) feet of dedicated open space. The Board may alter the width of this screening if it determines that the existing vegetation and/or topography, or the proposed method of screening fulfills the intent of these requirements. The distance between existing homes and the OSRD shall also be considered.

1. Screening/buffering may consist of landscaped berms, evergreen plantings, solid walls or fences complemented by suitable plantings, "no cut" provisions (for existing vegetation), or a combination of these items.

2. Buffer strips(s) on individual building lots shall have a written deed restriction permanently preserving such. This document shall be submitted for review by the Planning Board and recorded at the Norfolk County Registry of Deeds with any approval.

3. In those situations where the width of the screening/buffering is reduced, plantings and/or landscaped berms may be located within the dedicated open space. No walls or fences shall be allowed within the dedicated open space.

4. The exact location of the screening/buffering and species type(s) of vegetation shall be noted on the definitive plan. All new plantings shall consist of evergreens and be situated in a manner acceptable to the Planning Board

8.3.6 Dedicated Open Space.

1. A minimum of forty-five (45%) percent of the parcel shall become dedicated open space pursuant to Massachusetts General Laws, Chapter 40A, Section 9. It shall not include land for paved parking lots, roads or for building lots. The Planning Board may reduce this figure to a minimum of thirty five (35%) percent if it determines there are unique circumstances (re: shape of parcel, topography, wetlands, etc.) that would individually or together preclude the construction of the OSRD.

2. The minimum width of dedicated open space between abutting property and the OSRD shall be twenty-five (25) feet. Other than new screening/buffering, this area shall remain in a natural state. The Planning Board may increase the width of this dedicated open space. When considering such, it shall review, among other things, the width of the required buffer strip, the density and type of existing vegetation, the location of, distance and topography between existing structures abutting the OSRD.

3. Unless required by the Planning Board, dedicated open space is not required between an existing dwelling(s) which is located within the OSRD and parcels abutting the OSRD.

4. Areas that have been designated as unsuitable for building per Massachusetts General Laws, Chapter 131, Title V, or Zone A1 through the National Flood Insurance Program, or otherwise may be included in the dedicated open space; provided, that a minimum of seventy (70%) percent of the required, dedicated open space shall consist of upland areas.

5. Dedicated open space may be utilized as natural courses for disposal for storm drainage from impervious surfaces. Other than minor berming (maximum 3-1 slopes which shall blend into the landscape) and riprap at pipe outflows, no significant disruptions of the land (contour changes greater than three (3) feet) for drainage are permitted.

6. Dedicated open space may be in one or more parcels of a size and shape appropriate for its intended use. The parcels shall be laid out to promote convenient access by the homeowners within the OSRD, the general public or both, whatever the case may be. Wherever practical, parcels shall be accessible via upland areas. These items shall be agreed upon by the Planning Board and applicant.

8.3.7 Ownership of Dedicated Open Space.

1. As agreed upon by the applicant and the Board, dedicated open space shall either be conveyed to the Town and accepted by it for park or open space, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of all building lots within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case, where such land is not conveyed to the Town, a restriction enforceable by the Town pursuant to Massachusetts General Laws, Chapter 40A, Section 9, shall be recorded providing that such land shall be kept in an open natural state and not be developed or built upon.

2. If necessary, such restrictions shall further provide for maintenance for the common land in a manner which will ensure its suitability for its function, appearance, cleanliness, and proper maintenance of drainage, utilities, and the like.

3. Subject to the above, the dedicated open space may be kept in an open and natural state or may be used for recreational uses including, but not limited to, golf courses, riding trails, athletic fields or gardens.

8.3.8 Special Permit Application and Filings. A Special Permit application for an OSRD shall include a definitive subdivision plan with eleven (11) copies. It shall be prepared in accordance with Section 3.02 of the Foxborough Subdivision Regulations. In addition, the applicant shall provide the following information:

1. A detailed analysis of the site, including wetlands, soil conditions, areas within the one hundred (100) year flood plain, trees over six (6) inches in diameter in areas identified by the Planning Board, Water Resource Protection Overlay District delineation and natural, and/or man-made features and other items as the Planning Board may request;

2. A description of the proposed design characteristics of the site pursuant to these regulations;

3. Engineering data showing effects of proposed development on both on and off-site water resources (within one hundred (100) feet of the property line) wetlands and natural recharge of the groundwater, yield from abutters' private wells and possible impacts upon the quality of surface and groundwater;

4. A copy of any restrictive covenant(s) for the required buffer strips, association rules and regulations and/or other documentation relating to the creation of a Homeowners Association or similar entity.

8.3.9 Application Process. A pre-application review and public hearing are required. The intent of such is to allow the Town the opportunity to discuss with the applicant and review each proposal prior to the Special Permit process. After the pre-application review, an applicant may then proceed to the Special Permit process. A pre-application review will be conducted in accordance with the following procedure:

1. An application, a preliminary set of plans, illustrating a conventional subdivision plan and proposed OSRD shall be filed with the Foxborough

Town Clerk and the Planning Board. The application shall be accompanied by eleven (11) copies of the plans and any other supporting materials, which must be prepared and stamped by a registered, professional architect, civil engineer or landscape architect. This submittal shall comply with Section 3.01 of the Subdivision Regulations.

2. The plan shall be used by the Planning Board to determine the maximum number of lots which could be created via a conventional plan. This number will be the maximum allowed in an OSRD definitive subdivision plan submittal.

3. The burden of proof shall be upon the applicant to prove the proposed lot(s) are suitable for building. The Planning Board reserves the right to challenge the status of any lot and not allow such to be included in any definitive plan filing.

4. Formal percolation and depth to groundwater tests shall be conducted for each building lot unless town sewerage is available. The results of these tests shall be submitted with the application. Due to seasonal testing requirements, the Planning Board may accept an application without these certified tests. However, the applicant would proceed at his or her own risk and no development of a building lot could commence until it has been approved by the Board of Health.

5. A preliminary sketch plan of the proposed OSRD shall be submitted. It shall contain the proposed location of the road(s), lots, drainage, and dedicated open space. General topography, (with ten (10) foot contours) major site features and adjacent streets shall also be shown.

6. The Planning Board shall hold a public hearing and act on the preliminary plan within forty-five (45) days after the receipt of the application.

7. The conceptual OSRD shall also be reviewed and discussed during the hearing process. Comments and recommendations shall be incorporated in plans included in any subsequent filings.

8. If the preliminary conventional and conceptual OSRD plans are approved, the Planning Board shall, insofar as practical under the law, allow the submittal of a combined Special Permit and definitive subdivision plan. A combined submission will not be authorized in those cases where either the conventional preliminary plan or proposed OSRD sketch plan is not approved by the Planning Board.

8.3.10 Special Permit Decision.

1. The Planning Board shall conduct a public hearing in accordance with the provisions of these By-Laws.

2. The Planning Board may grant a Special Permit under this Section 8.3 only if it finds that the proposed plan will be in harmony with the intent and requirements of this Section and these By-Laws, and that the development will not have a detrimental impact on the neighborhood or abutting properties.

3. If the Planning Board disagrees with any recommendations of another Town of Foxborough Board, it shall state its reasons therefore in writing.

4. The Planning Board may impose conditions as a part of any approval that furthers the purposes of this Section 8.3 and these By-Laws.

5. The Planning Board shall require a performance guarantee to secure the proper completion of all infrastructures as well as the fulfillment of any conditions of approval.

8.3.11 Revisions to Special Permit. Subsequent to granting of a Special Permit, the Planning Board may permit the relocation of lot lines or changes to landscaping within the project; provided, that any change in the number of lots, street layout, square footage or composition of dedicated open space or disposition thereof, will require further review and a public hearing.

8.4 PLANNED DEVELOPMENT HOUSING

8.4.1 Minimum Parcel Size. All Planned Development Housing (PD-H) shall occur on parcels with a minimum of two hundred (200) acres and one hundred (100) feet of frontage within the R-40 Residential District.

8.4.2 Computation of Dwelling Units. One (1) dwelling unit shall be permitted for every 40,000 square feet of area. This figure shall be attained by using the gross square footage of the parcel.

8.4.3 Number of Bedrooms. The gross number of bedrooms within the Planned Development shall not exceed twice the number of dwelling units permitted. Within each Planned Development, not more than ten (10%) percent of the permitted dwelling units shall contain three (3) or more bedrooms. Single-family units are exempt from this three (3) bedroom limitation; however, the limitation on the gross number of bedrooms within the PD-H shall still remain in effect.

8.4.4 Open Space. Twenty-five (25%) percent of the parcel shall remain as open space.

9.1 SPECIAL USE DISTRICT (S-1)

9.1.1 Purpose. The Special Use District is established to encourage the innovative and creative design of office and industrial development and:

1. To promote economic development of the Route One corridor and to increase real estate tax revenue;

2. To maintain good planning and site review principles for new development proposals (i.e., encourage commercial cluster development approaches (PD), reinforce front yard buffers, provide performance standards and more definitive criteria for the Special Permit process, etc.);

3. To attract better land uses (e.g., Professional Office/Research and Development uses) along the Route One corridor, and to discourage strip or "ribbon" type of commercial development;

4. To assure environmental protection and preservation, and to preserve the Town's rural character;

5. To minimize the number of access points onto Route One and to lessen traffic congestion;

6. To minimize development demands placed on Town services and infrastructure; and

7. To implement proper procedures to assure that future development surrounding Gillette Stadium (as it may from time-to-time be called) will be completed in accordance with the above planning objectives.

9.1.2 Dimensional Requirements.

1. Lots with access to Route One shall have a minimum of three hundred (300) feet of frontage and 80,000 square feet.

2. Lots with access onto streets off Route One shall have two hundred (200) feet of frontage.

3. By Special Permit, lots may be allowed that have one hundred (100) feet of frontage; provided, that the portion of the lot to be built upon is a minimum of six hundred (600) feet from Route One. Structures on lots with one hundred (100) feet of frontage shall maintain all setback requirements from that portion of the lot to be built upon.

4. Maximum impervious surface coverage shall not exceed seventy (70%) percent of the lots.

5. Yards: Front yards shall not be less than seventy-five (75) feet. Side yards shall not be less than seventy-five (75) feet, but may be waived by the Planning Board in connection with the issuance of a Special Permit, provided that (1) the twenty-five (25) foot buffer is maintained, and (2) the total of both side yards equals or exceeds one hundred fifty (150) feet.

6. Building height shall not exceed forty (40) feet.

7. There shall be a landscaped buffer strip comprising a minimum fifty (50) feet of the front yard and twenty-five (25) feet of the side yard for all uses. Under no circumstances shall parking be allowed within these required buffer zones. These requirements may not be waived. Insofar as there may be inconsistencies with Section 6.4, the provisions of this Section shall apply in all cases.

8. Parking is allowed in the front yard provided that a fifty (50) foot buffer strip and the seventy-five (75) foot minimum building set back is maintained. Side and rear yard parking is preferred.

9.1.3 Retail Limitation. All mercantile/retail uses, except restaurants with seating shall not use more than twenty-five (25%) percent of the gross floor area of a structure. Lots of five (5) acres or less recorded or shown on a plan endorsed by the Planning Board prior to March 23, 1989 are allowed to have fifty (50%) percent of the total floor area used for retail.

9.1.4 Special Permit Process. Applicants seeking Special Permits in the S-1 District shall comply with the following standards and requirements.

1. The Planning Board acting as the Special Permit Granting Authority (SPGA) shall obtain with each submission a deposit sufficient to cover any expenses connected with the public hearing and review of the plans. The SPGA is authorized to retain a professional engineer, architect, or landscape architect, or other professional consultant to advise the Board on any or all aspects of the site plan. The cost of these services shall be borne by the applicant.

2. Prior to the required public hearing before the SPGA, the applicant shall meet informally with the Board of Selectmen. The Board of Selectmen may present its comments to the SPGA before the public hearing date.

9.1.5 Design Guidelines. The development shall be integrated into the existing terrain and surrounding landscape. Building sites shall, to the extent feasible:

1. Minimize use of wetlands, steep slopes, floodplains, and hilltops; and
2. Preserve natural and historic features; and
3. Maximize open space retention; and
4. Minimize obstruction of scenic views from publicly accessible locations; and
5. Minimize tree, vegetation and soil removal, blasting and grade changes; and
6. Screen objectionable features from neighboring properties and roadways; and
7. Minimize demands placed on Town services and infrastructure; and
8. Maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways; and
9. Minimize the obstruction of views from the access ways due to the siting of proposed buildings; and
10. Encourage the use of common driveways.

9.1.6 Design Requirements.

1. The development shall be served with adequate water supply and waste disposal systems.
2. If the lot, or any portion thereof, falls within the Water Resource Protection Overlay District, the Special Permit request shall so state. The criteria necessary for the granting of this Special Permit shall apply and be incorporated into the design of the plan. The Special Permit shall fulfill the requirements of both sections and shall be noted as such by the SPGA.
3. The development shall incorporate measures that are adequate to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased rates of runoff and potential for flooding. Drainage shall be designed so that peak flow rates shall not be increased above pre-development levels, and groundwater recharge is maximized.
4. Building design and landscaping shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screenings, and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and to avoid monotony. Proposed buildings shall relate harmoniously to one another.
5. Electric, telephone, cable TV and other such utilities shall be underground except where this cannot be accomplished because it is physically or environmentally not feasible, in which case a waiver from such will be requested by the applicant.
6. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back and/or suitably landscaped.
7. The SPGA may require that the principal access road be laid out and constructed in accordance with Town standards, as listed in Foxborough Subdivision Regulations.
8. No land use or establishment shall be permitted to produce a strong dazzling light or reflection of that light beyond its lot lines onto neighboring properties or onto any Town way so as to impair the vision of the driver of any vehicle upon that way. All such activities shall also comply with applicable federal and state regulations.
9. Excessive noise at unreasonable hours shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume. Hours of operation may be regulated to ensure that the peace and tranquility of abutting residential neighborhoods is maintained.
10. As required by the Planning Board, common driveways shall conform to the requirement in the Foxborough Subdivision Regulations that one hundred (100) feet of frontage shall be designed and constructed to allow for access from abutting lots. An easement allowing for such access (enforceable by the Town) shall be approved by the Planning Board and recorded at the Norfolk County Registry of Deeds with the Special Permit.
11. Driveways constructed on lots with one hundred (100) feet of frontage shall be designed and constructed to allow access from abutting lots. An easement allowing for such access (enforceable by the Town) shall be approved by the Planning Board and recorded at the Norfolk County Registry of Deeds with the Special Permit.
12. For those uses or activities where the general public may be assembled, the SPGA shall request the Chief of Police to recommend a crowd management plan. It may include requiring the applicant to maintain police details at the site to ensure public safety and convenience. As a condition of the

Special Permit, the SPGA may also require the approved plan to be reviewed, and if necessary, revised from time to time to ensure continual compliance.

9.1.7 Planned Development within the S-1 District (PD-S1). A Planned Development within the S-1 District (PD-S1) may consist of any use or uses permitted as of right or by Special Permit in the S-1 District. The intent of a PD-S1 Development is to allow flexibility in the overall design and planning process. If the applicant does not wish to create individual lots, approval under the Subdivision Control Law is not necessary. The SPGA may authorize an increase in height of a structure from forty (40) feet to sixty (60) feet, as well as increases in allowable retail development from twenty-five (25%) percent to fifty (50%) percent of gross floor area. Such increases may be authorized by the SPGA if it is determined that the applicant has designed a project that furthers the planning objectives and goals and objectives of the district. Among other things the SPGA will consider in authorizing such increases are: well designed landscaping, common driveways, building sites that are in harmony with the topography and the natural environment and that minimize impacts on infrastructure.

9.1.8 Planned Development Special Permit. All requests for Special Permits for Planned Developments shall meet the criteria stated in Section 9.1.6, above. The following additional regulations also apply to all PD-S1 Developments.

1. The maximum height allowed is sixty (60) feet.

2. The percentage of mercantile/retail uses allowed is fifty (50%) percent of the gross floor area of all of the structures combined. All retail uses may occur in one structure provided that the fifty (50%) percent limit for the entire PD-S1 is not exceeded.

3. Minimum lot size is five (5) acres with a minimum of one hundred (100) feet of frontage.

4. Maximum impervious surface coverage shall not exceed seventy (70%) percent. Density increases may be allowed by allowing greater building height.

5. The front yard requirement may be waived to fifty (50) feet provided that the entire area is a landscaped buffer. Side yard requirement may be waived provided that: (1) the twenty-five (25) foot buffer is maintained, and (2) the total of both side yards equals or exceeds one hundred fifty (150) feet.

6. There shall be a landscaped buffer strip comprising a minimum of fifty (50) feet of the front yard and twenty-five (25) feet of the side yard. Under no circumstances shall parking be allowed within these required buffer zones. These requirements may not be waived. Insofar as there may be inconsistencies with Section 6.4, the provisions of this Section 9.1 shall apply in all cases.

7. Parking is allowed in the front yard provided that the required fifty (50) foot buffer strip and seventy (75) foot building setback are maintained. Side and rear yard parking is preferred.

8. Access ways shall conform to Sections 304 and 305 of the Foxborough Subdivision Rules & Regulations as determined by the SPGA.

9.2 DESIGN REVIEW OVERLAY DISTRICT (DRD)

9.2.1 Purpose. The purpose of the Design Review Overlay District (DRD) is:

1. To protect the cultural and historical resources of the Town of Foxborough by initiating a review of all new, nonresidential and multi-family uses through the Site Plan Review and Special Permit process.

2. To preserve and enhance the cultural, economic and historical resources of the Town of Foxborough in the DRD. This will be accomplished by requiring a detailed design review of all proposed new developments, changes in appearance of existing buildings and sites, and proposed changes in land use for all multi-family dwellings and nonresidential structures.

9.2.2 Overlay District. DRD is established as an overlay district and includes all of those streets listed herein. The DRD shall include all nonresidential properties and all multi-family dwellings fronting the following streets and which are shown on the revised Zoning Map dated February 9, 1989 or any amendments thereto:

Baker Street (Bird Street to furthermost bound of Glenwood Avenue)
Bassett Street
Bentwood Street
Bird Street
Carpenter Street
Central Street (Common to furthermost bound of Leonard Street)
Church Street
Clark Street
Cocasset Street (Common to furthermost bound of Leonard Street)
Daniels Carpenter Court
Fales Place
Garfield Street
Gilmore Street
Glenwood Avenue
Granite Street
Gray Road
Leonard Street
Liberty Street
Main Street (Common to furthermost bound of Daniels Carpenter Court)
Maple Avenue
Maple Place
Market Street

Mechanic Street (Common to furthermost bound of Maple Avenue)
Orchard Place
Pettee Place
Railroad Avenue
Sherman Street
South Street (Common to furthermost bound of Union Street)
Union Street
Wall Street

9.2.3 Establishment of the Design Review Board. A Design Review Board is hereby established and shall review all applications subject to the provisions of this Section, and shall issue conditions and forward these to the appropriate board concerning the conformance of the proposed project to the design review standards contained herein. The Design Review Board shall consist of five (5) members who shall be appointed as follows:

1. One (1) member from the Planning Board appointed by the Planning Board;

2. One (1) member from the Historical Commission appointed by the Historical Commission; and

3. Three (3) members at large appointed by the Board of Selectmen, at least one (1) of whom shall be a merchant or property owner in the District. If possible, one (1) member should be a registered engineer or architect.

The term of the members of the Design Review Board shall be three (3) years, except that when the Design Review Board is originally established, the Board of Selectmen shall make two (2) of their appointments for a two (2) year term and the remaining appointment shall be for a one (1) year term.

9.2.4 Applicability. Within the Design Review District, only the following exterior activities which require approval through Site Plan Review or a Special Permit shall be subject to review by the Design Review Board:

1. All new structures;

2. Additions to existing structures;

3. Alterations to existing structures;

4. Changes in site design.

9.2.5 Standards. The Design Review Board shall consider, at a minimum, the following standards in the course of the design review of a proposed activity:

1. The proportions and relationships between doors and windows shall be compatible with the architectural style and character of the surrounding area.

2. The relationship of a structure to the open space between the structure and adjoining structures should be compatible.

3. The design of the roof should be compatible with the architectural style and character of the surrounding buildings.

4. The scale of the structure should be compatible with the character of the surrounding buildings.

5. Facades shall blend with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.

6. Architectural details including signs, materials, colors, and textures shall be treated so as to be compatible with its original architectural style and to preserve and enhance the character of the surrounding area.

7. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and when such design is compatible to the District.

9.2.6 Procedures. Applications for all activities subject to review by the Design Review Board shall be made by completing a building permit application form and submitting it to the Building Commissioner. Application forms are available from the Building Commissioner's office. The Building Commissioner shall forward the application to the Design Review Board and shall notify the appropriate Town Board if Site Plan Approval or a Special Permit is required.

1. Upon receipt of an application, the Design Review Board must, within twenty-one (21) days, submit any recommendations to the appropriate board. Failure of the Design Review Board to make recommendations within the twenty-one (21) day period shall be deemed a lack of opposition thereto.

2. The appropriate board shall consider any recommendations in its review of the application. It shall have the authority to include any recommendation(s) made by the Design Review Board when approving the application for the proposed activity.

9.3 FLOOD PLAIN OVERLAY DISTRICT (FPOD)

9.3.1 Overlay District. The Flood Plan Overlay District (FPOD) is established as an overlay district and includes all special flood hazard areas designated as Zone A, A1-30 on the Foxborough Flood Insurance Rate Maps, (FIRM) dated December 15, 1979, on file with the Town Clerk, Planning Board and Building Commissioner. These maps as well as the accompanying Foxborough Flood Insurance Study are incorporated herein by reference.

9.3.2 Requirements.

1. All building and structures erected in

areas prone to flooding, as designated on the Flood Insurance Rate Maps (FIRM) or as further enumerated, shall be constructed and elevated as required by the provisions of the Basic Code.

2. Within Zone A, of FPOD, where the base flood elevation is not provided on the FIRM, the applicant shall produce any existing, reasonable, base flood elevation data and it shall be used to meet the requirements of A above. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is lesser, within unnumbered A Zones.

3. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply;

   a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.

   b. If Section 9.3.3.a, above is satisfied, all new construction and substantial improvements shall comply with all provisions of Sections 9.3.2.1 and 9.3.2.2, above.

4. In Zones A1-30 and AE, of the FPOD, along watercourses that have a regulatory floodway designation, encroachments are prohibited in the regulatory floodway which would result in an increase in flood levels within the community during the occurrence of the base flood discharge.

5. In Zones A, A1, and AE, of the FPOD, along watercourses that have not had a regulatory designation, the best available Federal, State, and local or other floodway data shall be used to prohibit encroachments in the floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge; or take any other action relative thereto.

9.4 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)

9.4.1 Findings. The groundwater underlying the Town is a significant source of its existing and future drinking water supply. The ground water aquifers are integrally connected with, and flow into, the surface waters, lakes and streams which constitute significant recreational and economic resources of the Town. Spills and discharges of petroleum products and other toxic and hazardous materials and the discharge of sewage have repeatedly threatened the quality of ground water supplies and related water resources throughout Massachusetts and elsewhere, posing potential public health and safety hazards and threatening economic losses to the affected communities.

9.4.2 Purpose. The purpose of the Water Resource Protection Overlay District (WRPOD) is to protect the public health, safety, and general welfare of the community by:

1. Preserving and maintaining the existing and potential groundwater supplies, aquifers, and recharge areas of the Town of Foxborough, and protecting them from adverse development or land-use practices;

2. Preserving and protecting present and potential sources of drinking water supply for the public health and safety;

3. Conserving the natural resources of the Town;

4. Preventing blight upon and/or pollution of the environment;

5. Implementing the Town's authority to regulate water use pursuant to Massachusetts General Laws, Chapter 41, Section 69B, and Massachusetts General Laws, Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection (DEP).

9.4.3 Overlay District. The WRPOD is established as an overlay district and includes all those areas as designated on a map entitled, "Water Resource Protection District," Foxborough, Massachusetts, dated April 1989 as may be amended from time to time. It consists of aquifer recharge areas for existing, proven, and future well sites (Zone II and Zone III of the WRPOD), future potential aquifer areas, bodies of water, whether natural or manmade, each to the seasonal high water line and a surrounding protective setback, extending two hundred fifty (250) feet from the edge of a body of water. Any use not permitted in the other zoning districts shall not be permitted in the WRPOD. Any uses permitted in the portions of the districts so overlaid shall be permitted, except when the WRPOD imposes greater or additional restrictions and requirements, such restrictions and requirements shall apply. This map, as it may be amended from time to time, is on file with the office of the Town Clerk and with the Building Commissioner, and with any explanatory material thereon, is hereby made a part of these By-Laws.

9.4.4 Definitions. See Section 11 - "Water Resource Protection Overlay District."

9.4.5 Interpretation of Map. Where the bounds of the WRPOD, as delineated on the WRPOD map are in doubt or dispute, the burden of proof shall be upon the applicant concerning the land in question to show where they should properly be located. At the request of the applicant whose land has been

designated as part of the WRPOD, the Town, acting by the Planning Board, Board of Appeals, may engage a professional hydrogeologist or geologist to determine more accurately the location and extent of an aquifer or recharge area and may charge the owner for all or part of the cost of the investigation.

9.4.6 Minimum Requirements. The following are the minimum requirements for lots or portions of lots located inside a WRPOD.

1. Within the Primary Resource Areas, individual sewage disposal systems shall be designed to receive or shall receive not more than one hundred ten (110) gallons of design flow per 10,000 square feet of upland area under one ownership per day, or four hundred forty (440) gallons of design flow per 40,000 square feet of upland area under one ownership per day.

2. Within Zone III of the WRPOD individual sewage disposal systems shall be designed to receive or shall receive not more than 110 gallons of sewage per 10,000 square feet under one (1) ownership per day, or four hundred forty (440) gallons of design flow per 40,000 square feet under one (1) ownership per day.

3. Within the WRPOD, the replacement or repair of a sewage disposal system, shall not result in an increase in the design capacity over the original design, or the design capacity of 310 CMR 15.00, whichever is greater unless a system with enhanced nitrogen removal is installed that meets all of the following requirements:

   a. It must comply with 310 CMR 15.217 (2).

   b. The increased sewer flow for Primary Resource Areas does not exceed 137.5 gpd/10,000 square feet of upland area or 550 gpd/40,000 square feet of upland area and for Zone III does not exceed 137.5 gpd/10,000 square feet or 550 gpd/40,000 square feet.

   c. It must be approved by the Board of Health.

4. Within the Primary Resource Areas, single/two-family residential lots shall contain a minimum of 60,000 square feet of which a minimum of 30,000 square feet shall be upland area, unless the dwelling is connected to a sewer line, then the requirements of Table 5-1 of these By-Laws shall apply.

5. Within Zone III of the WRPOD, single/two family residential lots shall contain a minimum of 40,000 square feet, unless the dwelling is connected to a sewer line, then the requirements of Table 4-1 of these By-Laws shall apply.

6. Within the WRPOD, land uses on any lot shall not render impervious more than fifteen (15%) percent or 2,500 square feet, whichever is greater (unless otherwise provided for herein).

7. For parcels situated in the Primary Resource Areas of the WRPOD, the maximum number of building lots allowed in the Special Permit definitive plan filing for an Open Space Residential Development (OSRD) shall be determined by compiling the total sewerage flow allowed for the total upland area within each of the building lots approved in the conventional, preliminary plan. Minimum lot sizes of 30,000 square feet of upland area shall be required in these areas.

8. For parcels situated in Zone III of the WRPOD, the maximum number of building lots allowed in the Special Permit definitive plan filing for an OSRD shall be determined by compiling the total sewerage flow allowed within each of the buildable lots approved in the conventional, preliminary plan. Minimum lot sizes of 20,000 square feet shall be required in these areas.

9. A single or two-family residential lot, which is not serviced by a sewer line and where a portion of such is located within the WRPOD shall be allowed provided that:

   a. The lot meets the minimum requirements found in Table 4-1, and

   b. The septic system, leaching area and reserve area are located outside the WRPOD.

10. The mining of land or the removal of soil, loam, sand, gravel or any other mineral substances within the WRPOD shall only be allowed pursuant to Section 13 of the Foxborough General By-Laws.

11. If a lot is located partly within the WRPOD and partly outside of a WRPOD, the requirements of this Section 9.4 shall apply only to that portion of the lot located within the WRPOD.

9.4.7 Use Regulations For All Resource Areas; Permitted Uses. The following uses are permitted in the WRPOD:

1. Conservation of soil, water, plants and wildlife;

2. Nonintensive agricultural uses: pasture, light grazing, hay, gardening, nursery, conservation, forestry, and harvesting provided that fertilizers, herbicides, pesticides, and other leachable materials

do not exceed the limitations expressed in Section 9.4.8, Prohibited Uses, and are stored under cover in a manner which will prevent leakage;

3. Outdoor recreation, nature study, boating, fishing, foot, bicycle and/or horse paths, bridges, and hunting where otherwise legally permitted;

4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;

5. Toxic or hazardous materials may be stored as an accessory use provided that storage is either in a free standing container within a building or in a free standing container above ground level with protection adequate to contain a spill the size of the container's maximum storage capacity plus ten (10%) percent;

6. Publicly-owned treatment works and their appurtenances that meet the Groundwater Discharge Permit Program Requirements of 314 CMR 5.00.

7. All uses except for those uses that are prohibited within the WRPOD or allowed only by Special Permit under the WRPOD.

9.4.8 Use Regulations For All Resource Areas; Prohibited Uses. The following uses are prohibited in the WRPOD:

1. Disposal of liquid or leachable wastes other than normal sanitary waste;

2. Sanitary landfills and open dumps as defined in 310 CMR 19.06, disposal of solid wastes other than brush and stumps, and disposal of brush and stumps by burial with less than four (4) feet of clearance above the observed maximum water table;

3. Automobile graveyards and junkyards as defined in Massachusetts General Laws, Chapter 140B, Section l, or motor vehicle salvage operations;

4. Treatment or disposal works that are subject to 314 CMR 5.00, except the following:

   a. The replacement or repair of an existing system(s), that will not result in an increase in design capacity greater than the design capacity of the existing system(s);

   b. The replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in an increase in design capacity greater than the design capacity of the existing system(s);

   c. Treatment works approved by the Massachusetts Department of Environmental Protection (DEP) designed for the treatment of contaminated ground or surface waters; and

   d. Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to DEP's satisfaction both that these problems are attributable to current septic systems and that there will be a net improvement in water quality.

   e. Publicly owned treatment works, and their appurtenances that meet the Groundwater Discharge Permit Program Requirements of 314 CMR 5.00

5. Storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

6. Stockpiling and disposal of snow or ice removed from highways or streets located outside of the WRPOD that contains sodium chloride chemically treated abrasives or other chemicals used for snow and ice removal.

7. Commercial establishments or municipal facilities for the washing, servicing, or repair of motor vehicles, airplanes or boats.

8. Commercial establishments for the plating, finishing, etching, or polishing of metals or semiconductors.

9. Manufacture of semiconductors or other electronic components.

10. Chemical or bacteriological laboratories.

11. Underground storage tanks for petroleum or any toxic or hazardous substances, except for replacement or upgrading of existing storage without increasing capacity provided that there is compliance with all local, state and federal laws.

12. Storage of liquid petroleum products of any kind, except those incidental to:

    a. normal household use and outdoor maintenance or the heating of a structure;

    b. waste oil retention facilities required by Massachusetts General Laws, Chapter 21, Section 52A;

c. emergency generators required by statute, rule or regulation; or

d. treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

Storage as listed in these items shall be in either a free-standing container within a building, or in a free-standing container above ground level with protection adequate to contain a spill the size of the container's maximum capacity plus ten (10%) percent.

13. Any use which involves as a principal activity, the manufacture, storage, use or disposal of toxic or hazardous material.

14. The storage of animal manure, unless such storage is covered or contained in accordance with the specifications of the United States Soil Conservation Service.

15. The use of septic system cleaners which contain toxic or hazardous materials, in accordance with 310 CMR 15.027.

16. Dry cleaning establishments and/or coin or commercial laundries where cleaning is performed on the premises.

17. Commercial establishments for painting, wood preserving, or stripping paint.

18. Commercial establishments for printing, photocopying, or photographic processing.

19. Commercial establishments for electronic circuit assembly.

20. Storage of commercial fertilizers, as defined in Massachusetts General Laws, Chapter 128, Section 64, unless such storage is within a structure designed to prevent the generation and escape of runoff or leachate.

21. Landfilling of sludge and septage as defined in 310 CMR 32.05.

22. The storage sludge or septage as defined in 310 CMR 32.05 unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.

23. Facilities that generate, treat, store or dispose of toxic or hazardous waste that are subject to Massachusetts General Laws, Chapter 21C, and 310 CMR 30.00, except the following:

    a. very small quantity generators, as defined by 310 CMR 30.00;

    b. household toxic or hazardous waste collection centers or events operated pursuant to 310 CMR 30.90;

    c. waste oil retention facilities required by Massachusetts General Laws, Chapter 21, Section 52A; and

    d. treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

24. Any floor drainage systems in industrial or commercial process areas or toxic or hazardous material and/or toxic or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization.

25. Commercial Kennels.

9.4.9 Use Regulations For All Resource Areas; Special Permit Uses. The following uses may be allowed by the grant of a Special Permit.

1. Golf courses.

2. Any nonresidential or multi-family use that will render impervious more than fifteen (15%) percent or 2,500 square feet (whichever is greater) over that portion of the lot within WRPOD.

3. Any non residential or multi-family use outside of the WRPOD, which directs surface-water flows from impervious areas greater than 2,500 square feet into a WRPOD.

4. A pre-existing, nonconforming, nonresidential or multi-family structure or use shall not be altered, reconstructed, extended without a Finding and a Special Permit based upon the requirements herein.

9.4.10 Stadium. Notwithstanding the foregoing, in connection with the development of a stadium and accessory uses thereto that are (i) within two hundred fifty (250) feet of the Neponset River, and (ii) within the Economic Development Area Overlay District, the foregoing uses shall be allowed without a Special Permit provided that such use:

1. is not located within a Zone II or Zone III of the WRPOD or within two hundred (250) feet of other bodies of water as delineated on the WRPOD map;

2. is reviewed and approved by the Town of Foxborough Conservation Commission and/or the Massachusetts Department of Environmental Protection (DEP) pursuant to the Massachusetts Wetlands Protection Regulations (310 CMR 10.00); and

3. is reviewed and approved by the Planning Board through Site Plan approval pursuant to Section 10.5 of these By-Laws.

9.4.11 Special Permit Granting Authority. The Planning Board is the Special Permit Granting Authority (SPGA). It is also authorized to make findings for proposed extensions and alterations of pre-existing, nonconforming structures or uses within the WRPOD pursuant to Section 4.0 of these By-Laws. The SPGA shall be responsible for assuring that all applications comply with the provisions of this Section.

9.4.12 Special Permit Application. The following materials prepared and stamped by a Registered Professional Engineer shall be submitted to the SPGA (ten copies) and the Town Clerk (one copy) at the expense of the applicant.

1. A site plan conforming to the requirements and specifications of Section 10.5 of these By-Laws and this Section 9.4.

2. Material Safety Data Sheets for all chemicals, pesticides, fuels, and other potentially toxic or hazardous materials to be used, generated, stored, or disposed of on the premises, and a complete list of the maximum quantities of chemicals, pesticides, fuels, and other potentially toxic or hazardous materials to be used and other pertinent information.

3. A description of proposed measures to protect all storage containers or facilities associated with such materials from vandalism, accidental damage, corrosion, and leakage and the location of such storage on the premises.

4. For any toxic or hazardous wastes to be generated in quantities greater than those associated with normal household use, the applicant must demonstrate to the SPGA the availability and feasibility of disposal methods which comply with the regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30.00, Paragraph 1 of this Section 9.4.12, and all other applicable state and federal laws including obtaining an EPA identification number from the DEP.

5. A description of proposed methods by which runoff from impervious areas will be recharged into the ground within the premises.

6. An erosion and sedimentation control plan.

7. Projections of concentrations of nitrogen and other relevant solutes in the groundwater at the downgradient boundary of the property and at any other locations deemed pertinent by the SPGA, including drinking-water wells illustrated on a plan by flow lines from the proposed site. Such projections shall be based upon appropriate groundwater models, such as, the Mass Balance Nitrate Model from the Cape Cod Aquifer Management Project (CCAMP) document and the following information or standards:

   a. Wastewater per person: seven (7) pounds of nitrogen per year, 4 persons per dwelling unit;

   b. Lawn fertilizers: two (2) pounds of nitrogen per 1,000 square feet of lawn per year;

   c. Road runoff: 0.19 pounds of nitrogen per day per lane mile;

   d. Background nitrogen concentration: actual on-site measurements;

   e. Hydraulic conductivity: use on-site data;

   f. Saturated thickness: use data from site-specific borings;

   g. Groundwater gradient: use data from site-specific measurements.

   These projections may not be required, as determined by the SPGA, for projects which involve no on-site discharge other than sanitary waste, or where disposal is through a sewer line and comply with regulations herein.

9.4.13 Design Standards. When considering an application, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures and design standards proposed, and the degree of threat to water quality which would result if the control measures and design standards failed. Where applicable, the SPGA must find based upon the requirements of this Section 9.4 that proposed alterations or extensions are not substantially more detrimental to water resources than the existing, nonconforming structure or use within the defined WRPOD. The SPGA may grant a Special Permit if it finds that the applicant has demonstrated that the proposed activity or use complies with the following design standards and requirements:

1. It meets the intent and specific criteria of this Section 9.4;

2. It will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the WRPOD;

3. It will not adversely affect an existing or potential domestic or municipal water supply;

4. Groundwater quality at the downgradient boundary of the property shall not be allowed to violate State or Federal drinking water standards;

5. Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: prohibition of underground fuel storage tanks; spill control provisions and clean-up in the vicinity of chemical or fuel delivery transfer points; secured storage areas for toxic or hazardous materials; indoor storage provisions for corrodible or dissolvable materials/wastes; and a schedule of future monitoring of waste streams or groundwater on the site to ensure that proper control has been maintained;

6. Where uses are partially outside of a WRPOD, potential pollution sources such as on-site waste disposal systems and their reserve areas and drainage basins shall be located outside the WRPOD, to the extent feasible;

7. Site design shall result in no increase in the peak rate of storm water runoff in a ten (10) year storm and one hundred (100) year storm. Site design shall result in no increase in the total volume of stormwater runoff in a one (1) year storm event. Areas left in an open or vegetated state shall be located so as to increase distances between impervious surfaces or on-site disposal systems and any surface water body or municipal well. Where possible, storm water should be controlled by Best Management Practices (BMPs). For example, storm water may be directed through vegetated areas prior to infiltration into the groundwater or to surface water;

8. Systems for artificial recharge of precipitation will not result in the degradation of groundwater quality. Wherever possible, recharge should occur by BMPs or through diversions into vegetated areas where surface infiltration will occur. Dry wells shall be used for roof runoff and in those situations where surface infiltration is not feasible. Discharge of all runoff (excepting roof drains) shall be preceded by, and flow through oil and grease traps, and sediment traps which shall be maintained in accordance with a maintenance schedule submitted as required by the SPGA;

9. Periodic monitoring and sampling schedule may be required by the SPGA, based upon the proposed use of the site, including, but not limited to: sampling of wastewater disposed to on-site systems, maintenance records for dry wells and sampling from groundwater monitoring wells if mandated by the Special Permit. If required, a monitoring report with six (6) copies shall be submitted within a specified time period to the SPGA who will distribute them to the Town Clerk, Fire Chief, Board of Health, Board of Water and Sewer Commissioners, and Conservation Commission. The cost of monitoring, including sampling an analysis, shall be the responsibility of the applicant;

10. All clearing and earthmoving operations shall occur only when erosion and sedimentation control measures are in place as approved by the SPGA or the Conservation Commission when it is within the Conservation Commission's jurisdiction. Such control measures shall remain in place until the SPGA or the Conservation Commission determines that the danger of erosion or sedimentation no longer exists.

9.4.14 Decision. After a public hearing, the SPGA shall coordinate, clarify and weigh the comments and recommendations of the various Town of Foxborough agencies/boards; it shall then issue a written decision pursuant to Section 10.4 of these By-Laws.

1. In addition to the findings described above, the decision of the SPGA shall include an explanation of any departure from the recommendations of any other Town of Foxborough agencies/boards.

2. For projects which require approval by other Massachusetts or Town of Foxborough agencies/boards, the Special Permit shall include a condition that no building permits shall be issued until evidence has been received by the SPGA and Building Commissioner that such required approvals have been received.

9.5 ECONOMIC DEVELOPMENT AREA OVERLAY DISTRICT (EDAOD)

9.5.1 Purpose. It is the purpose of this Section 9.5:

1. To supplement existing zoning regulations to provide regulating flexibility to encourage economic development within the District in accordance with Chapter 16 of the Massachusetts Acts of 1999; and

2. To address the unique pressures and demands of development and the use of property within the District due to the high volume of pedestrian and vehicular traffic generated by uses in this area.

9.5.2 Overlay District. The Economic Development Area Overlay District (EDAOD) is established as an overlay district and includes that area designated on a map entitled, "Economic Development Area Overlay District, Foxborough, MA" that is on file with the Town Clerk and the Building Commissioner and which, together with any explanatory material thereon, is hereby incorporated in and made a part of these By-Laws. This map shall be considered as superimposed over other districts established by these By-Laws.

9.5.3 Applicability. Buildings and land uses within the EDAOD shall be governed by the pertinent regulations within the Special Use (S-1) District, except as modified by the provisions of this Section 9.5. Where the base zoning regulations of the Special Use (S-1) District differ from the provisions of this Section 9.5, the provisions of this Section 9.5 shall govern.

9.5.4 Permitted Uses. The following uses shall be permitted as of right as either primary or accessory uses, notwithstanding anything contained in Table 3-1 to the contrary:

1. All uses permitted as of right in the Special Use (S-1) District.

2. Parking lots, whether paved or unpaved, serving uses with seating or attendance capacities of over 7,500 people, provided that any such parking lot shall comply with the parking standards otherwise set forth herein.

3. Mercantile or retail uses, provided that the total gross floor area used for mercantile or retail purposes in buildings and structures located on a lot shall not exceed fifty (50%) percent of the gross square footage of the buildings and structures on such lot, and provided further that for the purpose of this provision, mercantile or retail uses within a stadium or associated directly with and accessory to a stadium shall not be subject to this total gross floor area restriction.

4. Restaurants with or without seating, including, without limitation, restaurants employing "take out service" and so-called "fast-food restaurants."

5. Stadiums.

6. Sewage treatment plants and sewage treatment facilities.

7. Parking garages, provided that any such parking garage shall comply with all applicable dimensional and other zoning requirements set forth in these By-Laws.

8. Offices.

9. Indoor entertainment facilities, housing permanent or temporary events.

10. Entertainment productions for theme-oriented or seasonal entertainment events temporary in nature, which may be held in an outdoor setting or a combination of an indoor/outdoor setting, provided that no singular event shall exceed thirty (30) days in duration, and that the cumulative number of days in a calendar year for all such events shall not exceed ninety (90) days. No more than one (1) such seasonal or theme-oriented event or production shall occur on a lot at a given time. Notwithstanding the foregoing, the time, duration and event limitations contained herein shall not apply to any of the uses permitted under Section 9.5.5, below.

11. Pedestrian crossovers located over a street or way, thoroughfare, highway or driveway.

9.5.5 Permitted Accessory Uses - Stadium. The following uses shall be permitted as accessory uses to the primary use of a lot for a stadium whether such accessory uses are located on the same lot as such stadium or on an adjacent or contiguous lot under common or affiliated ownership (whether the ownership interest is fee simple or leasehold):

1. Sports-oriented entertainment centers, including, without limitation, National Football League Pavilion type uses, whether permanent or temporary, with vending machines, interactive manual, mechanical, audiovisual, electronic and computer games, equipment or systems and general entertainment facilities.

2. Practice fields, weight-training facilities, practice pavilions and other sports-related structures for similar uses.

3. Access ways (including no more than one (1) limited access way through residential districts) and associated infrastructure, including, but not limited to, drainage, sewer lines and utilities, serving events licensed by the Board of Selectmen at a stadium within the District. For (i) all National Football League (or successor) football games, (ii) soccer games, and (iii) six (6) other events, for which tickets will be made available for 50,000 or more attendees (the "Permitted Events"), the one (1) limited access way through residential districts may be used pursuant to Site Plan approval granted by the Planning Board and shall be subject to limitations as to time, and the number and type of vehicles using said access way, pursuant to Section 9.5.10.4. For any other stadium event for which greater than 50,000 tickets will be made available, the Planning Board may allow the use of said limited access way through residential districts subject to the issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Planning Board shall also review the day(s) of the week the access way is proposed to be open, the proposed hours of operation, the proposed number and types of vehicles to use it, and the general impacts on the neighborhood.

4. Dormitories provided such use shall be limited to stadium- related purposes.

5. Storage yards, water tanks and towers, cooling towers, emergency generators, water filtration plants and utility facilities and structures, including sewage treatment plants and electric power substations.

6. Passive outdoor recreational uses such as parks and picnic groves.

7. Hotel.

9.5.6 Dimensional Standards.

1. Yards: All yards shall comply with the requirements of Section 4.0 and Table 4-2 of these By-Laws, except that there shall be no minimum front yard, side yard and rear yard requirements applicable to a lot on which is located a stadium, or to a pedestrian crossover located over a street or way, thoroughfare, highway or driveway where the crossover services such a lot.

2. Frontage: The provisions of Sections 9.1.2.1 and 9.1.2.2 shall apply to lots within the District.

3. Lots: Coverage and Definition. The maximum impervious surface coverage limitations within the District shall be as follows:

   a. Maximum impervious surface coverage shall not exceed seventy (70%) percent, to be measured cumulatively with respect to contiguous or adjacent lots under common or affiliated ownership.

   b. For any lot on which a stadium is located, the maximum impervious surface coverage shall not exceed ninety-five (95%) percent.

   c. Notwithstanding any other provisions of these By-Laws except Section 9.5.6.3.b, above, for the purposes of applying the requirements of these By-Laws to the EDAOD, adjacent or contiguous lots (including lots separated by a public or private street or way, thoroughfare, highway or driveway) under common or affiliated ownership (whether the ownership interest in such lot is fee simple or leasehold) shall be deemed a single lot.

9.5.7 Height. The height limitations of Section 4.0 and Table 4-2 shall not apply to buildings or structures in the EDAOD. The height limitations applicable to buildings or structures in the EDAOD shall be as follows:

1. Section 4.4.1 shall apply to buildings or structures within the EDAOD.

2. The building height of any structure located less than three hundred (300) feet from the layout of Route One shall not exceed forty (40) feet; provided, that upon the granting of a Special Permit pursuant to the requirements set forth in Section 9.5.7.5, below, any principal structure located less than three hundred (300) feet from the Route 1 right of way may be erected to a height in excess of forty (40) feet but not greater than one hundred (100) feet, provided that in no event shall the high point of any building or structure exceed the maximum elevation of four hundred fifty (450) feet above mean sea level.

3. The building height of any structure, other than a stadium, that is located (i) greater than three hundred (300) feet from the layout of Route One, and (ii) greater than two hundred (200) feet from any property line that abuts a residential zoning district shall not exceed one hundred (100) feet; provided, that in no event shall the high point of any such building or structure exceed the maximum elevation of four hundred fifty (450) feet above mean sea level.

4. Notwithstanding any foregoing provision, the height of stadiums shall not exceed two hundred twenty (220) feet in the case of outdoor air stadiums and two hundred eighty (280) feet in the case of domed stadiums.

5. Deviations within the EDAOD from the height requirements of this Section 9.5.7 may be allowed by the Planning Board by issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Board shall also consider the proximity of the proposed structure to Route One and residential abutters, the visual impacts of the proposed structure, the impacts of the structure on the municipal water supply, the water distribution system, off-street parking impacts, minimum fire flows and the proximity of the structure to other nonresidential buildings.

9.5.8 Buffer Strips. Buffer strips shall comply with the applicable minimum requirements set forth in Sections 5.4 and 9.0, except that such requirements shall not apply to:

1. Any lot the primary use of which is a stadium, or any pedestrian crossover located over a street or way, thoroughfare, highway or driveway where the crossover services such a lot;

2. The front yard of any lot located along Route One, except that a minimum front yard landscaped strip of fifteen (15) feet along Route One shall be required, which landscaped strip shall consist of

the following visual screening elements:

a. at least one row of individual shrubs or tree, at least fifty (50%) percent of which shall be large shade trees; and

b. a three (3) foot high earth berm.

3. The access way through residential districts allowed under Section 9.5.5.3, except that a minimum buffer strip of twenty (20) feet shall be required along each side of any such access road. It shall contain two (2) rows of shrubs or trees planted six (6) feet on center not less than six (6) feet in height (from the 'top of the ball') at the time of occupancy. At least fifty (50%) percent of the shrubs or trees shall consist of evergreens and shall thereafter be maintained by the owner or occupant to provide a dense screen year round. In addition, fences may be required by the Planning Board. In the areas where such buffer would be within a wetland resource area, such buffer shall comply with and conform to any applicable Order of Conditions issued by the Foxborough Conservation Commission or the Massachusetts Department of Environmental Protection.

4. The Planning Board may require screening and buffer strips and/or designated "no cut/no build" areas that are established under the applicable Site Plan or Special Permit process required under these By-Laws to have a written deed restriction permanently preserving such. This document shall be submitted for review by the Planning Board and suitable for recording at the Norfolk County Registry of Deeds with any approval.

5. Deviations within the EDAOD from the buffering and screening requirements of this Section 9.5.8 may be allowed by the Planning Board by issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Planning Board shall also consider existing topography in the vicinity of the request, existing vegetation, the proximity of abutting structures and the proposed buffering and landscaping within the area under consideration.

9.5.9 Parking Standards and Location. Off-street parking in the EDAOD shall comply with the following standards and location requirements and shall not be subject to the provisions of Section 6.1., except as otherwise provided in this Section 9.5:

1. Table 6-1 shall govern the number of parking spaces required for uses in the EDAOD; except that there shall be no minimum off-street parking requirement applicable to a stadium use in the District.

2. Sections 6.1.6.7, 6.1.6.8, 6.1.7.2 and 6.1.7.6 of these By-Laws shall apply to off-street parking in the EDAOD.

3. Required off-street parking spaces do not have to be located on the same lot as a proposed use provided that contracts, easements, agreements or other evidence are presented to the appropriate board to ensure that parking facilities not owned by the applicant will continue to be available.

4. Shared, multi-use parking is permitted in the EDAOD and will be counted in determining whether a use has the requisite number of spaces.

5. Multi-level parking structures shall be permitted in the EDAOD, provided that such structures comply with all dimensional and other zoning requirements set forth in these By-Laws.

6. Off-street parking spaces are allowed in the front yard of lots with frontage on Route One provided that a fifteen (15) foot landscape strip is maintained in accordance with Section 9.5.8.2 of these By-Laws.

7. The maximum curb cut for curb cuts in the EDAOD shall not exceed forty (40) feet in width unless (i) otherwise required by nonlocal regulations and/or approved by the Massachusetts Highway Department (MHD) as part of a Section 61 Finding, or (ii) recommended by a traffic engineer selected by the applicant in connection with the development of the property based on a traffic engineering study compiled by such engineer.

8. All parking spaces shall be suitably marked with striping.

9. The surfacing requirements for parking lots within the EDAOD shall be as follows:

a. All parking areas serving a stadium or mercantile or retail uses associated directly with and accessory to such stadium shall either be paved with bituminous concrete or cement concrete or shall be surfaced with a minimum of six (6) inches of densely graded crushed stone, crushed gravel or stone dust, graded and compacted so as to achieve a stabilized surface and dispose of all surface water accumulation.

b. All parking areas required under Table 6-1 for uses other than those

set forth in 9.5.9.9.a above, shall be paved with bituminous concrete or cement concrete.

10. A bituminous concrete curb, berm or wheelstop shall be placed at the edge of paved parking areas except where necessary to facilitate overland drainage flow and stormwater management in accordance with a stormwater management plan approved for such parking area. In any nonpaved parking area, if stormwater catch basins are installed, there shall be a paved area around each basin to help control sediments that might flow into said basins.

11. Interior landscaping shall not be required for parking areas serving a stadium or uses related to such stadium. For parking areas required for other primary uses that are not stadium-related, the interior landscaped bumper strip requirements of Section 6.6.1.5 of these By-Laws shall apply, except that such interior landscaped bumper strips shall not be required provided that additional landscaped areas equal in area to the otherwise required interior landscaped bumper strips are provided at the perimeter of such lot as shown on a site plan subject to Site Plan approval.

12. Parking areas will have controlled points of access and egress. All driveways and access lanes shall comply with the location requirements of Section 6.1.7.4 of these By-Laws, except where such driveways and access lanes comply with an access plan approved by the MHD as part of a Section 61 Finding.

13. Nonresidential driveways or access lanes shall be a minimum of twenty-six (26) feet in width except that the access way through residential districts allowed under Section 9.5.5.3 of these By-Laws shall not be subject to this limitation.

14. Deviations within the EDAOD from the parking standards and location requirements of this Section 9.5.9 may be allowed by the Planning Board by issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Board shall consider existing or proposed shared parking, the proximity of the spaces to abutters and to the building they service, drainage impacts, impacts on environmentally sensitive areas and landscaping.

9.5.10 Site Plan Review. Site Plan Review pursuant to Section 10.5 of these By-Laws, will be required for any new building, any addition to any existing building or structure or any change of use in the EDAOD. Applicants shall not be required to obtain Special Permits with respect to proposed development plans and/or uses that comply with the requirements set forth in this Section 9.5. Site plan review is not required for those uses which require a Special Permit pursuant to this Section 9.5, unless otherwise required to comply with the requirements of this Section 9.5. In addition to the standards and requirements set forth in Section 9.1 of these By-Laws, applicants seeking Site Plan Review approval within the EDAOD shall comply with the following additional standards and requirements:

1. To the extent feasible, development proposals shall minimize demands placed on Town services and infrastructure. In the case of Increased Impact Developments (as hereinafter defined), the Planning Board may require off-site enhancements or other appropriate responses to mitigate the identified impact(s). As used herein, the term "Increased Impact Developments" shall mean a development that (i) will increase traffic volume on a street by twenty-five (25%) percent or more during any given peak traffic period and result in insufficient capacity, or (ii) will reduce existing fire flow at the project site below five hundred (500) gallons per minute, or (iii) will trigger the "ENF and Mandatory EIR" filing requirement under the Massachusetts Environmental Policy Act (MEPA) regulations (301 CMR Section 11.03).

2. Development plans shall maximize the convenience and safety of vehicular and pedestrian movements within the subject site in relation to a stadium, Route One, interior access roads (existing or proposed) and adjacent ways. Impacts on abutting residences shall be limited to the maximum extent feasible.

3. The use of common driveways (limiting curb cut openings onto Route One) is encouraged. To the extent feasible, these driveways and access roads shall conform to the construction standards found in the Foxborough Subdivision Regulations.

4. To the extent feasible, except with respect to the access way through residential districts allowed under Section 9.5.5.3 of these By-Laws, sidewalks, crosswalks and other pedestrian amenities shall be incorporated into street and access drive designs. In connection with the development of a stadium and accessory uses thereto, the widths of such sidewalks, crosswalks and other pedestrian amenities should reflect their proximity to such stadium, and expected use by stadium patrons. To the extent feasible, sidewalks should be separated from vehicle

travel/breakdown lanes and access roads by distance, grade changes or other physical impediments.

5. Any access way through a residential district that is allowed pursuant to Section 9.5.5.3 of these By-Laws shall be subject to limitations pursuant to Site Plan approval by the Planning Board, for the purpose of protecting residences from excessive impacts arising from traffic on said access way, based on the following criteria.

   a. Time of use of said access way may be limited to further the foregoing purpose provided that such limitations allow for the use of said access way during the hours before and after Permitted Events during which attendees typically enter and exit a stadium for an event.

   b. Number of vehicles using said access way may be limited to further the foregoing purpose; provided, however, that not less than 1400 vehicles per Permitted Event shall be allowed.

   c. Types of vehicles using said access way may be limited such as to prohibit commercial truck traffic to further the foregoing purposes.

   d. Signage along said access way in areas abutting residential neighborhoods may be limited to further the foregoing purpose.

   e. Lighting for said access way in areas abutting residential neighborhoods may be limited to further the foregoing purpose.

   f. Width of said access way may be limited to further the foregoing purpose; provided, however, that such width shall not be less than is reasonably necessary to insure vehicle access to Permitted Events and to insure that, simultaneously therewith, emergency vehicles will have sufficient access on said accessway.

9.5.11 Stadium. The standards and requirements set forth in Section 9.1 of these By-Laws and this Section 9.5 shall govern the Site Plan Review process, provided that in connection with the development of a stadium and stadium-related uses, the Planning Board shall not require a deposit of money or an Irrevocable Letter of Credit to secure conditions of approval where the Planning Board receives as security a surety bond, executed escrow agreement, executed retainage agreement or other similar agreement.

9.5.12 Violations. Violation of any condition of the Planning Board's Site Plan approval shall be subject to the enforcement provisions of Section 10.1 of these By-Laws.

9.6 CHESTNUT-PAYSON OVERLAY DISTRICT (CPOD)

9.6.1 Purpose. It is the purpose of this Section:

1. To permit the implementation of the Reuse Consensus Plan for Foxborough State Hospital Property dated April 20, 1994, amended September 5, 2002. This will permit the total construction of one hundred fifty-two (152) total residential units in the CPOD.

2. To permit maximum flexibility and creativity in design for the development of single or multi-purpose uses on a lot, in a way that will be superior to conventional plans.

3. To promote the most harmonious use of the land's natural features, resources and topography that will promote the general health and safety of the public.

4. To discourage sprawled development, minimize environmental disruption, and provide a shorter network of streets and utilities, which will promote a more efficient distribution of services.

5. To provide for an innovative approach to mixing building types and controlling densities.

9.6.2 Overlay District. The Chestnut-Payson Overlay District (CPOD) is established as an overlay district encompassing the area more particularly delineated on the plan entitled "Chestnut-Payson Overlay District (CPOD) Plan in Foxborough, MA" prepared by Bay Colony Group, dated October, 2002. The parcels are labeled on the plan as parcels E-3, F-1, F2-A, F2-B, H, and I. This map shall be considered as superimposed over other districts established by these By-Laws. The map as it may be amended from time-to-time, is on file with the office of the Town Clerk and with the Building Commissioner, and together with any explanatory material thereon, is hereby incorporated in and made part of these By-Laws.

9.6.3 Special Permit. A Special Permit may be granted by the Planning Board to allow for single or multipurpose integrated commercial and/or residential uses on a lot in the CPOD. This Special Permit is not limited to an individual lot, but one application may be submitted and reviewed for a single Special Permit for multiple lots provided that such lots are under single ownership or if it can be demonstrated that all owners within the CPOD have agreed to join in the application for a Special Permit.

9.6.4 Uses Allowed and Not Allowed in the CPOD. All uses allowed in the underlying zoning district shall be allowed for those parcels in the CPOD, unless amended by this Section 9.6. The following uses may be permitted within the underlying zoning district are not permitted within the CPOD:

1. Temporary parking lots, whether paved or unpaved, serving uses with seating capacities of over 7,500 people within the Special Use Zoning District.

2. Mobile homes/travel trailers.

3. Cemeteries.

4. Seasonal migrant workers quarters, mobile home or watchman's quarters as accessory
uses to permitted Industrial uses.

5. Outdoor storage or overnight parking of buses, trucks or other vehicles whose Gross Vehicle Weight (GVW) as determined by Mass. Registry of Motor Vehicles equals or exceeds 10,000 pounds.

9.6.5 Uses Allowed by Special Permit. The following additional uses not specified in Table 3-1 shall be allowed by Special Permit in the CPOD if the use is not allowed in the underlying zoning district. Also, if the following uses, as specified in Table 3-1, are not permitted in the underlying zoning district, they too shall be allowed by Special Permit in the CPOD:

1. Attached Single-Family Housing.

2. Assisted Living Facilities.

3. Open Space Residential Developments.

4. Sewage treatment plants and sewage treatment facilities.

5. Water tanks and towers, emergency generators, water filtration plants, utility facilities, power plants and substations.

6. Parking lots constructed to the standards set forth in Section 6.1 of these By-Laws.

7. All land and buildings that are used for display and sale purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public, including among others retail stores, shops and sales rooms, restaurants with seating. Sale of high hazard materials or products shall be governed by the provisions noted in Table 3-1.

8. Mercantile/retail uses, except restaurants with seating, which use more than twenty- five (25%) percent of the gross area of a building.

9. All land and buildings that are used for the transaction of business, for the rendering of professional or tradesman services, or for other services that involve stocks of goods, wares, or merchandise in limited quantities for use incidental to office uses or similar purposes.

10. Research and Development facilities.

11. Laundry or Dry Cleaning facilities.

12. Theatres.

13. Museums with or without an auditorium in which persons assemble for amusement, entertainment or recreation and incidental motion picture, dramatic or educational presentations, lectures or similar purposes.

14. Private Schools.

15. All land and buildings for housing people suffering from physical limitations, including, among others, hospitals, sanitariums, infirmaries, orphanages, and institutions licensed by the Commonwealth of Massachusetts.

16. Dormitories.

17. Multifamily dwellings.

18. Public Utility facilities and structures necessary to the service of the Town, excluding storage yards, power plants, water filter plants, sewage treatment and refuse facilities.

19. Telecommunications/Wireless Communications Facilities (see Section 7.2) as accessory use.

20. Commuter rail stations, bus stations, and related or accessory structures and improvements.

21. Passive outdoor recreational uses such as beaches, parks, picnic groves, and other similar uses, but not including amusement parks.

22. Low density recreational uses that predominantly occur within a building such as swimming, tennis, skating and other similar uses.

23. Outdoor recreational uses, including golf driving ranges, miniature golf courses, batting cages, go-carts and bumper boats (except in the Water Resource Protection Overlay District, where such uses shall be prohibited), but not including amusement parks.

24. Accessory uses to multifamily dwellings which are located within the principal building and are limited to: eating establishments; personal service establishments; retail sales establishments selling convenience merchandise.

25. Accessory Structures to multifamily structures.

26. Nonresidential Accessory Uses and structures that do not exceed fifteen (15%) percent of the gross area of the principal building or buildings.

9.6.6 Dimensional Requirements. The requirements of Table 9-1 shall apply:

Table 9-1 DIMENSIONAL REGULATIONS FOR CHESTNUT-PAYSON DISTRICT									
USE	**FRONTAGE (ft.)**	**YARDS (ft.)**			**BUILDING HEIGHT**		**MAXIMUM LOT COVERAGE**	**MINIMUM LOT WIDTH (ft.)**	
		Front	Side	Rear	Stories	Feet		Distance from Street	Width
Attached Single Family Housing	30	10	0	20	2.5	35	85%	0	0
Multi-family Housing (including dormitories)	200	20	20	20	3	40	85%	100	67
Assisted Living, Age Restricted Senior Housing	200	20	20	20	3	40	85%	100	67
Non-residential (including Hotel/Motel)	200	15	0	20	3	40	85%	0	0

9.6.7 Notes to Table. These notes apply only to the specific uses listed in Table 9-1.

1. More than one dwelling structure may be located on a lot within the CPOD.

2. Attached Single-Family Housing uses require the formation of a homeowners association or other provision for on-going maintenance. Properties must have side-yards between groups of buildings.

3. The Planning Board may approve reduced yards where either the clustering of buildings is shown to reduce additional impervious surface and/or if there is reuse of the existing buildings.

4. Note 2 in Table 4-1 does not apply.

5. For CPOD applications that include use of a substantial portion of those buildings under the protection of the Massachusetts Historical Commission (particularly the Main Building wings A-E), there is a density bonus of thirty (30%) percent, applicable to all residential uses within the CPOD.

6. Height restrictions shall apply to any newly constructed building in the CPOD.. Height restrictions shall not apply to any structures existing as of January 1, 2002, even when such structures are modified, reconstructed or restored, so long as the height thereof is not increased. For CPOD applications that include use of those building under the protection of the Massachusetts Historical Commission, newly constructed buildings within the CPOD shall be no more than three (3) stories, not to exceed forty-two (42) feet.

7. Maximum Lot Coverage for nonresidential uses in the CPOD shall be eighty-five (85%) percent.

8. Those dimensional restrictions established in Table 4-2 that are imposed when a nonresidential use abuts a residential district do not apply to the CPOD.

9. The provisions of Sections 6.4.4 and 6.4.5 of these By-Laws shall not apply to uses within the CPOD as there is no required side yard setback and in certain cases only a ten (10) foot front yard requirement within this district. Where possible, a five (5) foot landscaped strip shall be located in the required front yard of uses within the CPOD.

10. The Planning Board may allow for common driveways within the CPOD.

11. For side yards, a setback of twenty (20) feet will be required between buildings in the CPOD and existing residential developments in adjoining districts.

12. Maximum residential density shall be as follows:

    a. Attached single family housing: three (3) dwelling units per 32,250 square feet of lot area; additional dwelling units shall require 6,125 square feet lot area each.

    b. Multi-family housing, including dormitories: three (3) dwelling units per 32,250 square feet of lot area; additional dwelling units shall require 6,125 square feet lot area each.

    c. Assisted Living, Age Restricted Senior Housing: seven (7) dwelling units per acre.

9.6.8 Parking. The Planning Board shall review the adequacy of parking to be provided using the following design criteria.

1. Parking requirements as set forth in Section 6.1 of these By-Laws, except that assisted living facilities shall require one space per four dwelling units.

2. The off-street parking requirements set forth above and in Table 6-1 may be reduced by up to twenty-five (25%) percent at the discretion of the Planning Board through the Special Permit process. The Board shall review and consider the request in accordance with Section 6.1.5 of these By-Laws.

9.6.9 Site and Building Design Requirements. Applications for a Special Permit in the CPOD shall meet the requirements as set forth in Section 6.4 of these By-Laws.

9.6.10 Application. The Planning Board shall act as the Special Permit Granting Authority. Applications for Special Permits for the CPOD shall be made in accordance with Section 10.4 of these By-Laws. All applications shall contain all of the information noted herein. The applicant is encouraged to meet with the Town Planner informally prior to submittal. The application shall include the following:

1. The completed application form and the applicable fee to address the administrative, advertising and review costs of the Town.

2. Ten (10) copies of the application package and plans.

3. Site information as required below.

4. A certified list of abutters within one hundred (100) feet of the property line.

5. Applications for a Special Permit in the CPOD shall meet the requirements set forth in Section 10.4 of these By-Laws. In addition, the applicant shall submit the following:

    a. Statement of development concept, including the planning objectives and the character of the development to be achieved through the CPOD.

    b. Development schedule indicating the date when construction of the CPOD would commence and expected completion, including and proposed phasing of development.

    c. Statement of how utilities and other infrastructure will be provided, including design standards.

    d. Impacts of, mitigation for and benefits from the CPOD.

    e. Public access and recreation opportunities resulting from the CPOD.

9.6.11 Criteria for Review. Prior to granting a Special Permit, the Planning Board shall make a determination that the proposed activity is consistent with the general purposes of these By-Laws as set forth in Section 9.6.1.

The Planning Board shall also make a determination that the benefits of the proposed development will outweigh any adverse effects of the CPOD on the Town. The Planning Board's determination shall include review of the following:

1. Quality of site design to enhance the area including integration of a variety of land uses, building types and densities, and preservation of natural features.

2. Compatibility with adjacent land uses, including a determination that the proposed development will not have a demonstrable adverse impact on the surrounding area resulting from excessive noise, level of illumination, glare, dust, smoke or vibration that is higher than levels now experienced from uses permitted in the surrounding area; emission or discharge of noxious or hazardous materials or substances; pollution of water ways or ground water; or transmission of signals that interfere with radio or television reception.

3. Compatibility with existing historic features, including minimization of the removal or substantial alteration of buildings of historic or architectural significance and new uses or the construction of new buildings that are compatible with buildings or places of historic or architectural significance.

4. Traffic flow and safety particularly with respect to circulation patterns for motor vehicles and pedestrians that would result from the proposed development and that will not result in conditions that unnecessarily add substantially to traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

5. Adequacy of utilities and other infrastructure (such as the sanitary sewer system, the storm drainage system, the public water supply, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic), including a determination that the development will not create impacts on the public services and facilities serving the development that can not be accommodated by such services and facilities, or, where there is insufficient capacity in such services and facilities, improvements will be made to provide sufficient capacity.

9.6.12 Peer Review. The Planning Board may require the use of consultant(s) to assist in its review of the Special Permit application. This shall be at the expense of the applicant, in accordance with applicable rules and regulations. The applicant's refusal to fund this effort shall be considered cause for denial.

9.6.13 Conditions for Approval. In addition to the conditions, standards and criteria as may be set forth in Section 10.4 of these By-Laws, the Planning Board may impose additional conditions and limitations, as it deems necessary to ensure that the granting of a Special Permit is consistent with the general purposes of these By-Laws, including but not limited to:

1. Regulation of the number, design and location of access drives or other traffic features of the proposed use;

2. Limitations on the number, location, type and size of signs or illumination or modification of the design features thereof; limitations on construction activities, such as, but not limited to, the hours during which construction activity may take place, the movement of trucks or heavy equipment on or off the site, measures to control dirt, dust, erosion, and measures to protect existing vegetation on the site; requirements for independent monitoring, at the expense of the applicant, and reporting to the building commissioner, if necessary to ensure continuing compliance with the conditions of a Special Permit or these By-Laws;

3. Limitations on the period of time this Special Permit shall be in effect;

4. Such other limitations as may be reasonably related to reducing undue adverse impact on the surrounding area.

9.6.14 Revisions to an Approved Site Plan.

1. The owner or lessee of the site, the Building Commissioner, or the Planning Board may initiate a petition to change or modify a site plan approval within a CPOD after construction has been initiated. This may occur in the event of unforeseen site characteristics, infrastructure problems or other unexpected circumstances. All changes shall be reviewed and discussed by the Planning Board at a regularly scheduled meeting prior to completion of such on the landscape. Changes or modifications shall only be authorized in writing.

2. Changes or modifications may be allowed for an approved site plan where construction has not commenced only after review during a regularly scheduled meeting and written approval of the Planning Board.

3. The Planning Board reserves the right to require a new hearing at the expense of the applicant if it determines that a proposed change or modification is significant.

9.6.15 Decision. The site plan shall be approved and the Special Permit shall be granted provided that all requirements of these By-Laws are fulfilled. Approval will not relieve the applicant of the responsibility of obtaining other required approvals from local, state or federal agencies.

SECTION 10.0 ADMINISTRATION AND PROCEDURES

10.1 ZONING ENFORCEMENT

10.1.1 Building Commissioner. The Building Commissioner shall be charged with the enforcement of these By-Laws, and shall be deemed for such purposes as the Zoning Enforcement Officer.

10.1.2 Permit Required. No building or structure shall be erected, altered or moved in Foxborough without a written permit issued by the Building Commissioner. Such permits shall be applied for in writing to the Building Commissioner. The Building Commissioner shall not issue any such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of these By-Laws, except as may have been authorized by Special Permit or variance issued by the Board of Appeals, Planning Board, or the Board of Selectmen, provided a written copy of the decision governing any such Special Permit or variance be attached to the application and to the resulting building permit issued. One (1) copy of each such building permit as issued, including any conditions or restrictions attached thereto, shall be kept on file in the office of the Building Commissioner.

10.1.3 Enforcement. The Building Commissioner, upon being informed in writing of a possible violation of these By-Laws or on his or her own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. The Building Commissioner, on evidence of any violation after investigation and inspection, shall give written notice of such violation to the owner and to the occupant of such premises. The Building Commissioner shall demand in such notice that such violation be abated within a reasonable time that is designated therein by the Building Commissioner. Such notice and demand may be given by mail addressed to the owner at the address appearing for him on the most recent real estate tax records of the Town and to the occupant at the address of the premises of such seeming violation.

10.1.4 Penalties. Any person, firm, or corporation who violates, disobeys, or refuses to comply with any of the provisions of these By-Laws shall be fined a penalty of up to three hundred dollars ($300.00) per violation or occurrence and each day such violation or occurrence continues shall constitute a separate offense.

10.1.5 Noncriminal Disposition. In addition to the procedures for enforcement as described above, the provisions of these By-Laws may also be enforced by the Building Commissioner by noncriminal complaint pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provision of these By-Laws shall be fifty dollars ($50.00) for the first offense; one hundred dollars ($100.00) for the second offense; and three hundred dollars ($300.00) for the third and each subsequent offense.

10.2 BOARD OF APPEALS

10.2.1 Establishment. The Board of Appeals shall consist of three (3) regular members and two (2) associate members to be appointed in accordance with Section 4 of Article II of the Town of Foxborough General By-Laws, and Massachusetts General Laws, Chapter 40A, Section 12. The chairperson of the Board of Appeals may designate any such associate member to sit on the Board of Appeals in case of absence, inability to act, or conflict of interest on the part of any regular member thereof, or in the event of a vacancy on the Board of Appeals until said vacancy is filled in the manner provided in said Section 4 of Article 11 of the Foxborough General By-Laws and Massachusetts General Laws, Chapter 40A, Section 12.

10.2.2 Powers. The Board of 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 from any administrative official under the provisions of Massachusetts General Laws, Chapter 40A, or by any officer or board of the Town or by any person aggrieved by any order or decision of the Building Commissioner or any other administrative official in violation of any provision of said Chapter 40A or any by-law adopted thereunder. In exercising this power, the Board of Appeals may, in conformity with the provisions of these By-Laws, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

2. To hear and decide applications for Special Permits as provided in these By-Laws, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Board.

3. To authorize a variance upon petition or appeal with respect to a particular parcel of land or to an existing building thereon from the terms of these By-Laws where, owing to circumstances relating to the soil conditions, shape or topography of such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of these By-Laws would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without 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 these By-Laws, but not otherwise. The Board of Appeals shall not have authority to authorize a use variance except as provided for in Section 3.4 of these By-Laws.

4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in Massachusetts General Laws, Chapter 40B, Sections 20-23.

10.2.3 Rules and Regulations. The Board of Appeals shall adopt rules and regulations not inconsistent with the provisions of these By-Laws for conduct of its business and otherwise carrying out the purposes of these By-Laws and Massachusetts General Laws, Chapter 40A, and shall file a copy of such rules in the office of the Town Clerk.

10.2.4 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

10.3 PLANNING BOARD

10.3.1 Establishment. The Planning Board has been established pursuant to Massachusetts General Laws, Chapter 81A.

10.3.2 Powers. The Planning Board shall have the following powers:

1. To hear and decide applications for Special Permits as provided in these By-Laws, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Planning Board.

2. To review and decide applications for site plan approval.

10.3.3 Rules and Regulations. The Planning Board shall adopt rules and regulations not inconsistent with the provisions of these By-Laws for conduct of its business and otherwise carrying out the purposes of Massachusetts General Laws, Chapter 40A, and shall file a copy of such rules in the office of the Town Clerk.

10.3.4 Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

10.4 SPECIAL PERMITS

10.4.1 Special Permit Granting Authority. Where specifically designated in these By-Laws, the Board of Appeals, Planning Board, or Board of Selectmen shall act as the Special Permit Granting Authority.

10.4.2 Criteria. Special Permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in these By-Laws, the determination shall include consideration of each of the following:

1. Community needs served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impact on the natural environment; and
6. Potential economic and fiscal impact to the Town, including impact on Town services, tax base, and employment.

10.4.3 Rules and Regulations. The Special Permit Granting Authority may adopt rules and regulations for the administration of this Section 10.4. An application for a Special Permit shall be filed in accordance with any such rules and regulations.

10.4.4 Conditions. Special Permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of these By-Laws.

10.4.5 Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for Special Permits.

10.4.6 Lapse. A Special Permit shall lapse in two (2) years if a substantial use or construction has not begun under the permit within said two (2) years, except for good cause. The Special Permit Granting Authority may establish a shorter period if it so votes on a specific application.

10.5 SITE PLAN REVIEW

10.5.1 Purpose. Site Plan Review has been adopted for the following purposes:

1. To maintain the integrity and character of all zoning districts and adjoining zones by insuring that the development complies with these By-Laws and that the purposes as stated in Section 1.0 of these By-Laws are fulfilled.
2. To insure that development that is subject to this review is planned and designed to minimize impacts on the environment, its abutters and the community.
3. To provide an orderly review procedure where site plans of proposed projects can be approved with reasonable conditions which will further the purposes of these By-Laws.

10.5.2 Authority. The Planning Board shall hear and decide all petitions for Site Plan Review in accordance with the provisions of this Section 10.5.

10.5.3 Applicability. Site Plan Review is required for:

1. Any new building, and any addition to or any change of use of a predominantly nonresidential building in any zoning district. This shall include the construction of a new building on a previously developed lot. When an addition is proposed to an existing building, the Planning Board reserves the right to review the existing structure and site.
2. Any alteration of land greater than 1,000 square feet or change of use of land except for one (1) and two (2) family residential, agricultural, horticultural, floriculture, or viticulture uses.

10.5.3 Exemptions.

1. For an addition of less than one thousand (1,000) square feet to an existing building, the Planning Board may waive any or all of these requirements.
2. Site Plan Review is not required for those uses that require a Special Permit from the Planning Board, provided that all other requirements of this Section 10.5 shall apply.
3. The Planning Board shall not require the completion of an environmental impact report pursuant to Section 10.6 of these By-Laws if in connection with the development that is the subject of the Site Plan Review process the applicant is required to complete a MEPA environmental impact report ("EIR") in accordance with applicable state law, provided that such EIR is provided to the Planning Board sufficiently in advance of the Planning Board rendering its Site Plan Review decision so that the Board has adequate time to review the EIR.

10.5.4 Application Process. All applications for Site Plan Review shall be submitted to the Planning

Board or the Town Planner containing all of the information noted herein. The applicant is encouraged to meet with the Town Planner informally prior to submittal. The application shall include the following:

1. The completed application form and the applicable fee to address the administrative, advertising and review costs of the Town;

2. Ten (10) copies of the application package and plans;

3. Site information as required in Section 10.5.5, below; and

4. A certified list of abutters within one hundred (100) feet of the property lines.

10.5.5 Plan Requirements. All site plans for parcels of land under four (4) acres shall be at a scale of 1"=20'. Plans for parcels over four (4) acres shall not exceed 1"=40'. All plans shall be prepared by a qualified professional engineer, signed and stamped.

1. Plans shall have a locus at a scale of 1"=1000', the name and address of the legal owner and applicant, the zoning district and suitable space to record the action of the Planning Board.

2. The required and provided yard dimensions for each proposed and existing building shall be presented in table form.

3. The dimensions of all structures shall be clearly shown.

4. The location of existing and proposed driveways, parking, service and loading areas, and landscaping shall be shown.

5. Flood plains, wetlands, water bodies either on or off the site which could be impacted by the drainage, wooded areas to be retained or removed and existing and proposed topography at two (2) foot contours extending twenty-five (25) feet from the property lines are required.

6. Existing and proposed utility systems, screening and buffering, adequate and aesthetic lighting, signage and sewage disposal methods shall also be shown.

7. Elevation plans showing the exterior design of all proposed structures shall be submitted.

8. A separate Landscape Plan shall be submitted for facilities greater than 50,000 square feet or one hundred (100) parking spaces produced by a Registered Landscape Architect.

10.5.6 Site Plan Review Procedure.

1. The Planning Board shall provide copies of the application package to the Board of Selectmen, Building Commissioner, Board of Health, Board of Water and Sewer Commissioners, Police and Fire Departments, Highway Department, and Conservation Commission. To insure a timely and effective review, all comments shall be provided to the Planning Board prior to the date of the public hearing.

2. The Planning Board shall give notice of a public hearing by publication of a notice in The Foxboro Reporter and by posting a notice at Foxborough Town Hall at least seven (7) days before the hearing. Notice shall also be sent to all abutters prior to the hearing date.

3. The hearing shall be conducted no later than twenty-one (21) days after the receipt of a complete application. The Planning Board shall render a decision and file such with the Town Clerk within fifteen (15) days of the closing of the hearing. At the request of the applicant, these time periods may be extended.

10.5.7 Decision. The site plan shall be approved provided that all requirements of these By-Laws are fulfilled. Approval will not relieve the applicant of the responsibility of obtaining other required approvals from local, state or federal agencies.

1. If the site plan does not conform with the requirements of these By-Laws, the Planning Board shall identify these deficiencies in writing and deny approval. A new site plan submittal and hearing will then be required.

2. The Building Commissioner shall not issue a building or demolition permit until the Planning Board has filed its approval with the Town Clerk, or after fifteen (15) days have elapsed from the date of the close of the hearing without a decision being filed.

10.5.8 Approval Guidelines. If applicable, the applicant shall be responsible for complying with the provisions of Section 9.2 of these By-Laws. At its discretion, the Planning Board may require the completion of an Environmental Impact Statement pursuant to Section 10.6 of these By-Laws. The applicant may also be required to receive an Order of Conditions from the Conservation Commission prior to the Planning Board acting upon an application.

10.5.9 Revisions to an Approved Site Plan. The owner or lessee of the site, the Building Commissioner, or the Planning Board may initiate a petition to change or modify a site plan approval after construction has been initiated. This may occur in the event of unforeseen site characteristics, infrastructure problems or other unexpected circumstances.

1. All changes shall be reviewed and discussed by the Planning Board at a regularly scheduled meeting prior to the completion of such on the landscape. Changes or modifications shall only be authorized in writing.

2. Changes or modifications may be allowed for an approved site plan where construction has not commenced only after review during a regularly scheduled meeting and written approval of the Planning Board.

3. The Planning Board reserves the right to require a new hearing at the expense of the applicant if it determines that a proposed change or modification is significant.

10.5.10 Performance Guarantee; As-Built Plan. The Planning Board may require that the conditions of approval be secured by a deposit of money or an Irrevocable Letter of Credit in the favor of the Town. This performance guarantee shall bear a reasonable relationship to the expected costs of completing the work being secured.

1. If the developer fails to fulfill the conditions of approval which are secured, the Planning Board is authorized to use the funds to complete the remaining work.

2. Upon completion of the project, the developer shall submit "as-built" plans for review.

3. Upon acceptance of the plans by the Planning Board, the developer may submit a written request for a release of the performance guarantee. All changes or modifications shall be shown on the "as-built" plans.

4. A response to a request for a release of the performance guarantee shall be within twenty-one (21) days upon receipt of such. Failure of the Planning Board to act within this time period shall constitute a release of the funds.

10.5.12 Lapse. Site plan approval shall lapse if construction is not commenced within twenty four (24) months from the date of approval. A new submittal and hearing will be required. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

10.5.13 Fee. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

10.5.14 Appeal. Any decision of the Planning Board pursuant to this Section 10.5 shall be appealed in accordance with Massachusetts General Laws, Chapter 40A, Section 17, to a court of competent jurisdiction.

10.6 ENVIRONMENTAL IMPACT STATEMENT

10.6.1 Purpose. The purpose of an Environmental Impact Statement (EIS) is:

1. to enable the officials of the Town to determine what methods shall be used to mitigate the environmental/social impacts; and

2. to minimize adverse effects on the natural resources of the Town from the requested activity.

10.6.2 Applicability. An EIS may be required, at the expense of the applicant, in the following cases:

1. For any nonresidential or multifamily structure or use that could have significant, deleterious environmental or social impacts on the Town;

2. For any use requiring a Special Permit or site plan approval.

10.6.3 Disapproval. An EIS may be the basis for disapproval by the appropriate Town board.

10.6.4 Exemption. If the applicant is required to file an Environmental Impact Report with the Executive Office of the Environmental Affairs of the Commonwealth of Massachusetts, the Final Environmental Impact Report may be submitted to fulfill the requirements of this Section 10.6.

10.6.5 Requirements. In reviewing the EIS, the appropriate Town boards will consider the degree to which water is recycled back into the ground, the maintenance and improvement of the flow and quality of surface waters, the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archaeological features, existing or potential trails and accesses to open space areas; the health and safety of the inhabitants of the area; and the preservation of present social standards.

10.6.6 Scope of Work. The appropriate Town board shall develop a Scope of Work to direct the completion of the Statement. The Board may waive or add to the list of concerns noted in Paragraph D pursuant to the specifics of each project. It is recommended that the applicant meet with the board to participate in the preparation of this scope.

10.6.7 Consultant Review. Upon the completion of the Scope of Work, the appropriate Town board shall send out a "Request for Proposal" to specified consulting firms. The board shall review all responses and choose the optimum proposal. The applicant shall then be required to make a payment to the Town of Foxborough in the exact sum of the proposal selected. This money shall be placed in an interest bearing escrow account administered by the board pursuant to Massachusetts General Laws, Chapter 44, section 53G. Upon the satisfactory completion of the work, the consultant shall be paid and the applicant shall receive the remaining interest.

10.6.8 Contents of Statement.

1. Physical Environment. Provide a description and impact analysis the development will have on the general topography, vegetation, wildlife, unusual geologic, scenic and historical features, trails and open space and site relationship to the surrounding area.

2. Surface Water and Soils. Describe location, extent and type of existing

water and wetlands and the proposed alterations to such, including both existing and proposed surface drainage characteristics, both within and adjacent to the project. Describe the methods to be used during construction to control erosion and sedimentation; describe approximate size and location of land to be cleared at any given time and length of time and exposure; covering of soil stockpiles; and other control methods used. Evaluate effectiveness of proposed methods on the site and on the surrounding areas. Also describe the permanent methods to be used to control erosion and sedimentation.

3. Estimate increase of peak run-off caused by altered surface conditions, and methods to be used to return water to the soils.

4. Describe sewage disposal methods and location of such. Evaluate impact of disposal methods on the quality of the surface waters and groundwater.

5. Town Services. Describe estimated traffic flow at peak periods and proposed site and off-site circulation patterns and traffic controls.

6. Describe estimated effect/impacts of the project on police and fire protection services, public works, educational services, and the water supply system.

7. The appropriate Town board may require the submission of information, which could be required by the MEPA unit if an EIR were required under applicable MEPA regulations.

10.7 REPETITIVE PETITIONS.

No appeal, application or petition that has been unfavorably and finally acted upon by the Planning Board or the Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Planning Board or the Board of Appeals, as applicable, finds, by a vote of four (4) members of the Planning Board or a unanimous vote of the Board of Appeals, specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the record of its proceedings, after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

1. The Planning Board shall act first when the original unfavorable action occurred at the Board of Appeals. The Board of Appeals shall act first when the original unfavorable action occurred at the Planning Board.

SECTION 11.0 DEFINITIONS

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

Where terms are not defined, they shall have their ordinarily accepted meanings or such as these By-Laws may imply.

The determination of definitions in question shall lie with the Board of Appeals.

For any terms not defined herein, the definition as found in Webster's Unabridged Dictionary, most recent edition, or as found in the State Building Code of Massachusetts shall be used.

Unless otherwise expressly stated, the terms listed herein shall, for the purpose of these By-Laws, have the meanings indicated.

Accessory Structure: A structure customarily incidental and subordinate to the principal structure that is located on the same lot as the principal structure, except any structure(s) for any agricultural use.

Accessory Use: Accessory uses as permitted by these By-Laws are set forth in Section 3.0. An accessory use is one that: is clearly subordinate to, customarily found in association with, and incidental to a principal use; and is located on the same lot as the principal use, except any accessory use for any agricultural purpose.

Adult Uses: An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other materials for sale, rent, distribution, or exhibition, which are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31. Examples of such are listed below:

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

Adult Club: An establishment having as a substantial or significant portion of its activities or entertainment a person or persons performing in a state of nudity or 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 Entertainment Establishment: An establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

Adult Motion Picture Theater: An establishment used for presenting 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 Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including 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 portion 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 conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

Substantial or Significant Portion: This term as used herein shall mean any of the following:

a. Twenty (20%) percent or more of the business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time; or

b. Twenty (20%) percent or more of the annual number of gross sales, rentals, or other business transactions; or

c. Twenty (20%) percent or more of the annual gross business revenue; or

d. Twenty (20%) percent or more of the hours during which the establishment is open.

Age-Restricted Housing: A housing development in which at least one resident of each dwelling unit is fifty-five (55) years or older, and other residents must be over twenty-one (21) years of age but are permitted to be younger than fifty-five (55) years of age.

Agriculture: The use of a tract of land not less than five (5) acres in area for agriculture, horticulture, floriculture, viticulture, nurseries, orchards or greenhouses. The definition of agriculture shall include the keeping of livestock on parcels of two (2) acres or more.

Apartment: A dwelling unit in either a two-family or multi-family dwelling.

Arcade: An indoor recreation facility containing amusement or recreational games such as video or electronic games that contains more than three (3) arcade machines.

Area (Gross): Total floor area within a building.

Area (Net): The usable area (normally accessible to the public) of each story within a building or portion thereof.

Assisted Living Facilities: A structure or structures containing dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by Massachusetts General Laws, Chapter 19D.

Attached Single-Family Housing: The construction of houses that share a common side wall. The wall may or may not be the property line of the unit. These "attached single-family houses" may be allowed to be constructed on their own parcel of land with a front and rear yard or may be developed with the land around the unit being owned and maintained by a homeowners or condominium association. These units are commonly referred to as "Townhouses".

Basement: A portion of the building partially underground, but having less than half its clear height below the mean grade of perimeter walls of the building. For the purposes of these By-Laws, a basement shall be considered the first story of a structure (also see the term cellar).

Basic Code: The State Building Code of the Commonwealth of Massachusetts, as amended.

Bodies Politic: Those institutions of government appointed or elected in the Town of Foxborough.

Buildable Area: That area of a lot within which a building can be erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context required as though followed by the words "or part or parts thereof" (also see the term structure).

Building Commissioner: The officer or other designated authority of the Town charged with the administration and enforcement of the Basic Code and enforcement of these By-Laws

Commercial Campground: A facility located on a lot, not less than seventy-five (75) acres in area, intended for use by transient campers in tents or travel trailers, but <u>not</u> mobile homes. The facility may include accessory uses such as recreation fields and halls, swimming and shower facilities and convenience stores, all of which are intended for the use and convenience of users of the campground, and which are customarily accessory to the operation of a commercial campground.

Cellar: The portion of the building partially underground, having half or more than half of its clear height below the mean grade of the perimeter walls of the building (also see the term basement).

Child Care Center: A facility as defined by Massachusetts General Laws, Chapter 15D, Section 1A.

Dormitory: A building, or portion thereof, where group sleeping accommodations are provided, with or without meals, for persons not members of the same

family group, in one room, or in a series of closely related rooms under joint occupancy and single management, as in school or farm dormitories.

Drive-In Restaurant: Restaurants which promote the consumption of food or beverages in vehicles parked on the premises.

Dwellings:

> **Two-Family:** A Building containing two (2) dwelling units with not more than three (3) lodgers or boarders per unit.
>
> **Multi-Family:** A building, or portion thereof containing three (3) or more dwelling units.
>
> **Dwelling Unit:** One or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Farm Stand, Nonexempt: The sale of farm produce including poultry, on a parcel of land which is not being used for agricultural purposes and which is less than five (5) acres in area. A majority of such products for sale shall be grown or raised on the land on which the facility is located. No slaughtering of livestock other than poultry shall be allowed.

Frontage: That distance along a lot line which abuts a street or streets. Access shall only be through or across this legal frontage. The frontage distance shall be contiguous. The required frontage for a corner lot shall be provided on only one (1) street. Frontage shall be calculated from the intersection of the side-yard to the center of the curve radius along a straight line.

Height, Building: The vertical distance from either the sill elevation of a structure without a basement or cellar, or from the finished basement or cellar floor level of a structure with a basement or cellar to, the highest point of the top story in the case of a flat roof, or to the mean height between the top plate and the highest peak in the case of a building with a pitched roof, such highest point of the top story or mean height between the top plate and the highest peak hereinafter being referred to as the "High Point" of the structure.

Home Occupation, Intensive: Any gainful employment or occupation of one (1) or more members of the resident family that is clearly secondary or accessory to the primary residential use of the principal dwelling. Intensive home occupations include but are not limited to the following: work facilities for artists and dressmakers, tailors and other similar uses; home crafts, antique shops, beauty parlors, and other similar activities; professional office facility provided that no retail or wholesale transactions are made on the premises; school of special needs education whose class does not exceed four (4) pupils at any time unless otherwise exempt; dance studios or schools, musical instruction or other similar activities. See Section 3.2.2 of these By-Laws.

Kennel, Commercial: A pack or collection of dogs, cats, or other domestic animals on a single premise maintained for sale, commercial breeding, boarding, grooming, training, hunting, or for any other commercial purposes, and including any shop where dogs are for sale.

Lodging/Boarding House: Any structure used for the lodging of more than three (3) individuals and where cooking or sanitary facilities may be provided.

Lot: An area of land in one ownership with definite plan and used or set aside and available for use as the site of one or more structures or for any other definitive purpose.

Lot Area: The horizontal area of a lot, not including any area in a public or private street open for public use.

Lot Coverage: That percentage equal to the area of a lot covered by man-made materials such as structures, asphalt and concrete divided by the total lot area.

Lot Line: A line dividing one lot from another, or from a street.

Mobile Home: A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

Motor Vehicle Fuel Facility: Any structure whose primary purpose is the storage and sale of petroleum products or other fuels for motor vehicles and/or where minor repairs to motor vehicles are made within a structure.

Motor Vehicle Repair Shop: A structure in which the general business of repairing motor vehicles is conducted.

Municipal Recreation Facility: Land, including accessory structures, owned or operated by the Town of Foxborough that is used for one or more of the following uses: a golf course, riding stable, playgrounds, playing fields, fitness trails, a swimming pool, volleyball, bocce, tennis or basketball court(s), or other similar recreation facilities. No indoor or outdoor active recreation area or parking for same shall be located any nearer the lot line than the minimum building setback.

Parking Lot: A paved area, designed and constructed to the standards found in Section 7.0 of these By-Laws, the purpose of which is to provide off-street, vehicular parking. Parking lots may be a primary or accessory use of a parcel pursuant to Section 4.0, Table of Use Regulations.

Parties in Interest: As used in these By-Laws shall have the meaning as provided in Massachusetts General Laws, Chapter 40A, Section 11.

Person: Every natural person or other legal entity.

Reconstruction: The demolition of a structure and the rebuilding of a new structure on the same lot.

Residential Garage: a detached accessory structure to a single or two-family dwelling of which the primary purpose is to store motor vehicles. No

commercial activities shall occur within these structures unless authorized by these By-Laws.

Residential Storage Structure: a detached structure accessory to a single or two-family dwelling which does not exceed two hundred (200) square feet in gross area.

Story: The portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above, including basements.

Street or Way: A public way or way that the Town Clerk certifies is maintained and used as a public way, or a way shown on a definitive plan, approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town of Foxborough, which in the opinion of the Planning Board has 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.

Structure: A combination of materials assembled at a fixed location to give support or shelter, and as further defined in the Basic Code. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof".

Temporary Parking Lot: An area, whether paved or unpaved, which in the opinion of the Special Permit Granting Authority, is suitable for providing off-street, vehicular parking. Temporary parking lots may be a primary or accessory use of a parcel pursuant to Table 3–1.

Travel Trailer: A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use. It shall not be designed to be installed on a permanent or temporary foundation.

Truck Terminal/General Commodity/Public Warehouse: A facility/use whose primary function is to provide for the distribution of a wide variety of merchandise, goods and/or other products via trucks. This shall include those facilities designed to store products in preparation for shipping and where those products are generally not made available for retail sale. The storage or parking of tractor-trailers, trucks or trailers as a primary use.

Water Resource Protection Overlay District: The following definitions shall apply within the WRPOD:

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

Body of Water: A body of water shall be any open body of water, capable of supporting an indigenous fish population, either naturally occurring or man-made by impoundment. The body of water shall be existence prior to May 14, 1984 unless it is created for the sole intent and purpose for use as a source of potable water. It is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four (4) or more months during which the average rainfall for each is fifty (50%) percent or less of the ten (10) year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered bodies of water, nor shall swimming pools or other impervious man-made retention basins.

DEP: The Massachusetts Department of Environmental Protection.

Discharge: The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of toxic or hazardous materials upon or into any land or waters in the Town. Discharge includes, without limitations, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into an on-site sewage disposal system, drywell, catch basin, or unapproved landfill.

Design Flow: The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

Future Potential Aquifers: The land area outside the limits of Zone II and Zone III in the WRPOD which contains stratified drift aquifer deposits with a saturated thickness greater than ten (10) feet. These areas may, upon further test well exploration, prove suitable for the development of municipal water supply wells. Therefore, the regulations set forth in Section 9.4 of these By-Laws pertaining to Zone II areas also apply to Future Potential Aquifer Areas.

Groundwater: All the water found beneath the surface of the ground, including the slowly moving subsurface water present in aquifers and recharge areas.

Impervious Surface: Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil.

Leachable Waste: Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.

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

Primary Resource Areas: Consists of Zone II, Future Potential Aquifer areas, and two hundred fifty (250) foot setback areas from body of water.

Publicly Owned Treatment Works (POTW): Municipal wastewater treatment facility, including any device or system used

in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

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

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse.

Toxic or 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 of the Town of Foxborough. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or hazardous under Massachusetts General Laws, Chapters 21C and 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

Toxic or Hazardous Waste: As defined in 310 CMR 30.00.

Two Hundred Fifty Foot Setback Area from a Body of Water: An area consisting of a Body of Water and a surrounding protective setback, extending two hundred fifty (250) feet from the edge of a Body of Water.

Upland Area: That area exclusive of wetlands and floodplains as defined within the Wetlands Protection Act (Massachusetts General Laws, Chapter 131, Section 40, as amended).

Water Resource Protection Overlay District (WRPOD): The District consists of aquifer recharge areas for existing, proven and future well sites (Zone II and Zone III), future potential aquifer areas, bodies of water, whether natural or manmade, each to the seasonal high water line and a surrounding protective setback, extending two hundred fifty (250) feet from the edge of a body of water.

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

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

Wellness and Recreation Center: A facility located on a lot containing not less that eighteen (18) acres offered for use by the public for general wellness and recreation which may include a pool facility and any other indoor and outdoor sports, recreation and athletic use, day camps, and arts and humanities and uses incidental thereto, but excluding those uses that fall under Section 3.0.

Yard: An open space on a lot with a building, extending along the entire length of a front, rear, or side lot line.

ADOPTED Aff. 102 Neg. 23 9:14 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 7: Moved that Foxborough Zoning Bylaws be amended by adding the following new definitions to section 11:

Business Office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Club or Lodge, Private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain, and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Educational Use, Nonexempt: Educational facilities not exempted from regulation by Massachusetts General Laws Chapter 40A, Section 3.

Funeral Establishments: Facility for the conducting of funerals and related activities such as embalming.

Hotel or Motel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility.

Junk: Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, machinery, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

Junk Yard: Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of junk, or two (2) or more unregistered or inoperable motor vehicles.

Municipal Facilities: Facilities owned or operated by the Town of Foxborough and used exclusively for municipal or other public purposes.

Restaurant: An establishment where food and drink are prepared, served, and consumed primarily within the principal building. Food and drink may also be served and consumed outdoors on patios and sidewalks as well as packaged for take-out orders. The term "restaurant" shall not include "drive-in

restaurant."

Retail Establishment: All lands and buildings that are used for display and sale purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public, including, among others, retail stores, shops, and salesrooms.

ADOPTED Affirmative 120 Negative 8 9:17 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 8: Moved that the Table 3-1 and Section 11 of the Foxborough Zoning by-Laws be amended as follows:

Item 1. Add the following new entry to Section L in Table 3-1 and the new definition to Section 11:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
13. Adult Day Care Facility	BA	BA	BA	BA	BA	N	N	N

Adult Day Care Facility: A social day care or adult day health facility as those terms are defined by the Massachusetts Department of Elder Affairs.

Item 2. Add the following new entry to Section G in Table 3-1:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
12. Assisted Living Facility	PB	PB	PB	PB	N	N	N	N

Item 3. Add the following new entry to Section G in Table 3-1 and the new definition to Section 11:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
13. Bed and Breakfast	BA	BA	BA	BA	N	N	N	N

Bed and Breakfast Establishment: Accommodations with not more than four (4) bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfast establishments are intended for guests on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

Item 4. Add the following new entry to Section L in Table 3-1 and the new definition to Section 11:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
14. Family Day Care, Large or small	BA	BA	BA	BA	BA	BA	BA	N

Family Day Care: Any private residence operating a facility as defined in Massachusetts General Law's, Chapter 15D, Section 1A.

Item 5. Add the following new entry to Section G in Table 3-1 and the new definition to Section 11:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
14. Nursing or Convalescent Home	PB	N	PB	PB	N	N	N	N

Nursing or Convalescent Home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

ADOPTED Affirmative 110 Negative 9 9:32 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 9: Moved that the Foxborough Zoning Bylaws be hereby amended by deleting section 8.1 thereof entitled "SINGLE FAMILY CONVERSION," and by making the following changes:

Item 1. Add the following new Section 8.1:

SECTION 8.1 ACCESSORY APARTMENTS

8.1.1 Special Permit Required. The addition of an Accessory Apartment to a single family home may be permitted by the issuance of a Special Permit.

8.1.2 Standards. The standards set forth below shall be fulfilled prior to the granting of a Special Permit.

1. The owner of the property shall occupy one of the living units, and the other living unit can only be occupied by a family member specified in the Special Permit. All dimensional yard requirements (see Section 4.0 of these By-Laws) shall be met or relief from such granted. This shall apply to the existing structure and any proposed additions.

2. Any external changes or additions shall blend into the architectural and physical style of the existing structure to the satisfaction of the Planning Board. The Accessory Apartment shall share a common living area separation (wall or floor) with the principal unit and there shall be direct access between the units. The structure shall retain the visual appearance of a single family dwelling when viewed from the front yard(s).

3. The net floor area for the Accessory Apartment shall not exceed eight hundred fifty (850) square feet.

4. Adequate parking for two additional vehicles shall be provided. Said parking shall not be obtrusive and shall comply with all zoning regulations. It shall also be screened, if required by the Planning Board.

5. The Planning Board reserves the right to require screening between any addition(s) and immediate abutters. Landscaping for any new addition(s) may also be required.

6. All necessary state and local permits and requirements shall be adhered to and shall not compromise any of these regulations.

7. The utilities serving the additional unit shall not be separated from the primary home.

8. That within the Water Resource Protection Overlay District, the design sewage flow does not exceed the design sewage flow requirements established by Section 9.4 for the Zone II and Zone III of the Water Resource Protection Overlay District and that no Special Permit be granted to exceed this flow for a nonconforming structure.

Item 2. Change Table 3-1 Section G.5. Two (2) Family Dwellings from a use allowed by Special Permit in the R-40 Zoning District to being Not Permitted in the R-40 Zoning District, so that the table reads:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
5. Two (2) Family Dwelling	Y	N	Y	N	N	N	N	N

Item 3. Add the following new entry to Section G in Table 3-1:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
11. Accessory Apartment	Y	PB	Y	PB	N	N	N	N

Item 4. Add the following new definition to Section 11.0:

Accessory Apartment: a second dwelling unit in a single-family dwelling authorized pursuant to Section 8.1 of these By-Laws.

ADOPTED Affirmative 121 Negative 4 9:48 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 10: Moved that the Foxborough Zoning By-laws be hereby amended by adding the following new language regarding non-intensive home occupations:

Item 1. Add the following new Section 3.2.3:

3.2.3 Home Occupation; Non-intensive.
A non-intensive home occupation is permitted as of right as set forth in the Table of Use Regulations in the principal residence or in an accessory building, subject to the following standards:

1. The business must not produce noise or other objectionable characteristics beyond the limits of the lot; and
2. The area devoted to home occupation may not exceed four hundred (400) square feet total in the habitable area of the principal dwelling and the accessory building and shall not exceed twenty (20%) percent of the habitable area of the dwelling; and

3. Not more than one (1) vehicle dedicated or used in conjunction with the occupation may be parked on the property and said vehicle shall be registered and routinely driven on public streets and lawful to any other requirements of these By-Laws; and

4. No employees are permitted in conjunction with this employment; and

5. No customers or business associates are permitted to regularly visit said dwelling or in any manner transact any business from the dwelling; and

6. Routine deliveries of packages shall be less than seventy (70) pounds; and

7. Storage of materials or products outside of a principal building is prohibited; and

8. The making of external structural alterations which is not customary in residential buildings is prohibited; and

9. No signage concerning the home occupation is permitted; and

10. Not more than two (2) residents may be engaged in the same or related home occupation.

Item 2. Add the following to Table 3-1 as Item L.11:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
11. Home occupation, Non-intensive	Y	Y	Y	Y	N	N	N	N

Item 3. Add the following new definition to Section 11:

Home Occupation, Non-intensive: Any gainful employment or occupation of one (1) or more members of the resident family that is clearly secondary or accessory to the primary residential use of the principal dwelling, as limited by Section 3.2.3 of these By-Laws.

ADOPTED Affirmative 130 Negative 9 9:55 PM
Approved by the A.G. March 24, 2010. REC

Moved to recess until the second Special Town Meeting of December 14, 2009 at 8:00 PM is recessed or dissolved.

ADOPTED Affirmative 120 Negative 1 9:55 PM

The Special Town Meeting was reconvened at 9:55 PM in the auditorium of the Foxborough Senior High School on South Street, Foxborough, Massachusetts by Mr. Francis J. Spillane, Town Moderator.

ARTICLE 1: Moved no action on Article #1.

ADOPTED Aff. 135 Neg. 5 10:23 PM

The second Special Town Meeting was adjourned at 10:23 PM.

The first Special Town Meeting was reconvened at 10:24 PM in the auditorium of the Foxborough Senior High School on South Street, Foxborough, Massachusetts by Mr. Francis J. Spillane, Town Moderator

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ARTICLE 11: Moved that Neff Drive, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at its intersection with Payson Road, being thirty-five feet wide and ending in a cul-de-sac, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Neff Drive,' Village Estates II', Foxborough, MA," dated June 17, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purposes of this Article.

ADOPTED Aff. 134 Neg. 4 10:27 PM

ARTICLE 12: Moved that Kingsbury Lane, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at its intersection with Cutler Lane, being fifty feet wide, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Kingsbury Lane, 'Stonehurst' Foxborough, MA," dated February 5, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purposes of this Article.

ADOPTED Aff. 125 Neg. 2 10:29 PM

ARTICLE 13: Moved that Cutler Lane, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at its intersection with Kendall Drive at Kingsbury Lane, being fifty feet wide and ending at another intersection with Kendall Drive, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Cutler Lane, Foxborough, MA," dated February 5, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purpose of this Article.

ADOPTED Aff. 136 Neg. 3 10:31 PM

ARTICLE 14: Moved that Kendall Drive, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at its intersection with

Green Street, being fifty feet wide and ending at its intersection with Cutler Lane, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Kendall Drive, Foxborough, MA," dated February 5, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purpose of this Article.

ADOPTED Aff. 129 Neg. 2 10:33 PM

ARTICLE 15: Moved that Hutchins Drive, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at its intersection with Kendall Drive, being fifty feet wide and ending in a cul-de-sac, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Hutchins Drive, Foxborough, MA," dated February 5, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purpose of this Article.

ADOPTED Aff. 132 Neg. 1 10:34 PM

ARTICLE 16: Moved that Truax Lane, laid out pursuant to G.L. chapter 41 and 82, as amended, and as recommended by the Planning Board, be accepted as a public way beginning at intersection with Green Street, being fifty feet wide and ending at its intersection with Cutler Lane, as more particularly shown on that certain plan entitled "Street As-Built and Profile for Truax, Foxborough, MA," dated February 5, 2009 and prepared by Bay Colony Group, Inc.; and the Board of Selectmen be authorized to acquire by purchase, gift, eminent domain or otherwise, such land and slope, drainage and other easements and rights as may be necessary to effectuate the purpose of this Article.

ADOPTED Aff. 136 Neg. 3 10:34 PM

The Special Town Meeting was adjourned at 10:35 PM.

A True Record Attest:

Robert E. Cutler, Jr., Town Clerk