
ARTICLE 9: SPECIAL REGULATIONS

SECTION 9.00 SPECIAL USE (S-1) DISTRICT

A. Planning Goals and Objectives.

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/R & D 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 Foxboro Stadium and the raceway will be completed in accordance with the above planning objectives.
(Art. 27, 05/13/91 ATM)

B. Lot Requirements:

1. Lots with access to Route One shall have a minimum of 300 feet of frontage and 80,000 square feet.
 - (a). Lots with access onto streets off Route One shall have 200 feet of frontage.
(Art. 5, 02/07/94 STM)
 - (b). By Special Permit, lots may be allowed which have 100 feet of frontage; provided that the portion of the lot to be built upon is a minimum of 600 feet from Route One.
(Art. 5, 02/07/94 STM)
 - (c). Structures on those Specially Permitted lots with 100 feet of frontage shall maintain all setback requirements from that portion of the lot to be built upon. *(Art. 5, 02/07/94 STM)*
2. Maximum impervious surface coverage shall not exceed seventy percent (70%).
3. 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 25 foot buffer is maintained; and (2) the total of both side yards equals or exceeds 150 feet.
4. Building height shall not exceed forty (40) feet.
5. There shall be a landscaped buffer strip comprising a minimum 50 feet of the front yard and 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 Article 6, the provisions of this section shall apply in all cases.
6. Parking is allowed in the front yard provided that a 50-foot buffer strip and the 75-foot minimum building set back is maintained. Side and rear yard parking is preferred.

C. All mercantile/retail uses, except restaurants with seating shall not use more than twenty-five 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 50% of the total floor area used for retail.

- D. 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.
 3. The development shall be integrated into the existing terrain and surrounding landscape. Building sites shall, to the extent feasible:
 - (a) Minimize use of wetlands, steep slopes, floodplains, & hilltops;
 - (b) Preserve natural and historic features;
 - (c) Maximize open space retention,
 - (d) Minimize obstruction of scenic views from publicly accessible locations;
 - (e) Minimize tree, vegetation, and soil removal, blasting and grade changes; and,
 - (f) Screen objectionable features from neighboring properties and roadways.
 4. The development shall be served with adequate water supply and waste disposal systems. If the lot, or any portion thereof, falls within the Water Resource Protection District, the Special Permit request shall state such. 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.
 5. 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.
 6. To the extent feasible, development shall minimize demands placed on Town services and infrastructure.
 7. The development shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
 8. Building design and landscaping shall be 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.
 9. 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.
 10. 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.
 11. 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.

12. Buildings shall be sited so that obstruction of views from the access ways will be minimized.
 13. 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.
 14. 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 tranquillity of abutting residential neighborhoods is maintained. *(Art. 27 5/11/98 ATM)*
 15. To the extent feasible, common driveways shall be encouraged.
 - (a) As required by the Planning Board, common driveways shall conform to the requirements found in the Foxborough Subdivision Regulations 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 Board and recorded at the Registry of Deeds with the Special Permit. *(Art. 5, 02/07/94 STM)*
 - (b) Driveways constructed on those Specially Permitted lots with 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 Board and recorded at the Registry of Deeds with the Special Permit. *(Art. 5, 02/07/94 STM)*
 16. 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. *(Art. 25, 05/10/93 ATM)*
- E. Planned Development within the S-1 District (PD/S-1). Any use or uses permitted as-of-right or by Special Permit may be included in a PD/S-1 District.
1. The intent of Planned Developments 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 would not be necessary. The SPGA may authorize an increase in height of a structure from 40 to 60 feet, as well as increases in allowable retail development from 25 to 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 which minimize impacts on infrastructure.
 2. All requests for Special Permits for Planned Developments shall meet the criteria as stated in paragraph D. above. The following additional regulations also apply to all PD/S-1 Developments.
 - (a). The maximum height allowed is 60 feet.
 - (b). The percentage of mercantile/retail uses allowed is 50% of the gross floor area of all of the structures combined. All retail uses may occur in one structure provided that the 50% limit for the entire PD is not exceeded.
 - (c). Minimum lot size is five (5) acres with a minimum of 100 feet of frontage.

- (d). Maximum impervious surface coverage shall not exceed 70%. Density increases may be allowed by allowing greater building height.
- (e). The front yard requirement may be waived to 50 feet provided that the entire area is a landscaped buffer. Side yard requirement may be waived provided that: (1) the 25 foot buffer is maintained; and (2) the total of both side yards equals or exceeds 150 feet.
- (f). There shall be a landscaped buffer strip comprising a minimum of 50 feet of the front yard and 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 Article 6, the provisions of this Section shall apply in all cases.
- (g). Parking is allowed in the front yard provided that the required 50 foot buffer strip and 75 foot building setback are maintained. Side and rear yard parking is preferred.
- (h). Access ways shall conform to Sections 304 and 305 of the Foxborough Subdivision Rules & Regulations as determined by the SPGA.

F. Insofar as the provisions of this Section 9.00 are in conflict with or are inconsistent with the provisions of Section 9.13, the provisions of Section 9.13 shall govern. *(Art. 3, 12/06/99 STM)*

SECTION 9.01 SITE PLAN REVIEW

A. Purpose:

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 1.00 are fulfilled.
2. To insure that development which 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.

B. General Requirements:

1. The Planning Board shall hear and decide all petitions for Site Plan Review in accordance with the provisions of this Section.
2. Site Plan Review is required for any new building, any addition to, or any change of use of a predominantly non-residential 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.
3. Site Plan review is required for any alteration of land greater than 1,000 sq. ft. or change of use of land except for one and two family residential, agricultural, horticultural, floriculture, or viticulture uses. *(Art. 12, 11/05/01 STM)*
4. For an addition of less than 1,000 square feet, to an existing building, the Planning Board may waive any or all of these requirements.
5. Site Plan Review Application is not required for those uses, which require a Special Permit but all other requirements of this Section 9.01 shall apply; or take any other action relative thereto. *(Art. 25, 05/13/02 ATM) (Art. 22, 05/06/04 ATM)*
6. The Planning Board shall not require the completion of an environmental impact report pursuant to Section 9.03 of the By-Laws, if in connection with the development which 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. (Art. 3, 12/06/99 STM)

C. Application Process:

1. All applications shall be submitted to the Planning Board or its Administrator containing all of the information noted herein. The applicant is encouraged to meet with the Planning Administrator informally prior to submittal. The application shall include the following:
 - (a). The completed application form and the applicable fee to address the administrative, advertising and review costs of the Town.
 - (b). Ten (10) copies of the application package and plans,
 - (c). Site information as required in Paragraph D. below and,
 - (d). A certified list of abutters within 100 feet of the property lines.

D. Plan Requirements:

1. 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.
2. 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.
3. The required and provided yard dimensions for each proposed and existing building shall be presented in table form. The dimensions of all structures shall also be clearly shown.
4. The location of existing and proposed driveways, parking, service and loading areas, and landscaping shall be shown. 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 25 feet from the property lines are required. Existing and proposed utility systems, screening and buffering, adequate and aesthetic lighting, signage and sewage disposal methods shall also be shown.
5. Elevation plans showing the exterior design of all proposed structures shall be submitted
6. A separate Landscape Plan shall be submitted for facilities greater than 50,000sq. ft. or 100 parking spaces produced by a Registered Landscape Architect. (Art. 25, 05/13/02 ATM)

E. Site & Building Design Requirements:

(Art. 25, 05/13/02 ATM)

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.
2. Off Street Parking & Loading: The plan shall comply with Article 7 of the Foxborough Zoning By-Laws. Unless otherwise allowed by the Board construction materials and standards not specified within Article 7 shall be consistent with those found within the Foxborough Subdivision Regulations.

Provisions shall be made to accommodate areas for snow storage.

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.

4. Site Access: The 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 Board may require sidewalks or pedestrian paths within and between developments. The Board may also require the connection of adjacent properties via the use of common drives.
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.

Roof top mechanical installation shall be hidden from view from the street or adjoining properties.

6. Screening & Buffers & Landscaping Requirements: The plan shall comply with Article 6 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.
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.
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.
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.
10. Drainage: Detailed drainage design and computations shall be provided in conformance with the State of Massachusetts, Department of Environmental Protection Storm Water Management Handbook Volume 1 & 2. Closed drainage systems shall be designed for a 25-year storm event. Culverts, detention basins, and infiltration systems shall be designed for 100-year events.

Post development drainage rates shall not exceed pre-development levels. Within the Water Resource Protection 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.

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

F. 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.
 - (a). 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 Town Hall at least seven (7) days before the hearing. Notice shall also be sent to all abutters prior to the hearing date.
 - (a). The hearing shall be conducted no later than 21 days after the receipt of a complete application. The Planning Board shall render a decision and file such with the Town Clerk within 15 days of the closing of the hearing. At the request of the applicant, these time periods may be extended.
3. 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.
4. 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.
5. 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 15 days have elapsed from the date of the close of the hearing without a decision being filed.

G. Approval Guidelines:

1. If applicable, the applicant shall be responsible for complying with the provisions of Section 9.02 Design Review District. At its discretion, the Planning Board may require the completion of an environmental impact report pursuant to Section 9.03 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.
2. The Board may require that the conditions of approval be secured by a deposit of money or an Irrevocable Letter of Credit in the Town's favor. This performance guarantee shall bear a reasonable relationship to the expected costs of completing the work being secured.
3. The Planning Board may assess an inspection fee prior to the start of any construction at the site. The Planning Board will determine this fee. *(Art. 13, 11/05/01)*
4. Site plan approval shall lapse if construction is not commenced within two (2) years from the date of approval. A new submittal and hearing will be required.
5. Upon completion of the project, the developer shall submit "as-built" plans for review. Upon acceptance of the plans by the Board, the developer may submit a written request for a release of the performance guarantee.
 - (a). 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.
 - (b). A response to a request for a release of the performance guarantee shall be within 21 days upon receipt of such. Failure of the Board to act within this time period shall constitute a release of the funds.

H. 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 after construction has been initiated. This may occur in the event of unforeseen site characteristics, infrastructure problems or other unexpected circumstances.
 - (a). All changes shall be reviewed and discussed by the 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 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.
4. All changes or modifications shall be shown on the "as-built" plans.

SECTION 9.02 DESIGN REVIEW DISTRICT

A. Purpose:

1. The purpose of design review is to preserve and enhance the Town of Foxborough's cultural, economic and historical resources in the Design Review Overlay District. 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 non-residential structures.
2. The Design Review Overlay District shall include all non-residential 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 furthestmost bound of Glenwood Avenue)	
Bassett Street	Bentwood Street
Bird Street	Carpenter Street
Central Street (Common to furthestmost bound of Leonard Street)	
Church Street	Clark Street
Cocasset Street (Common to furthestmost 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 furthestmost bound of Daniels Carpenter Court)	
Maple Avenue	Maple Place
Market Street	
Mechanic Street (Common to furthestmost bound of Maple Avenue)	
Orchard Place	Pettee Place
Railroad Avenue	Sherman Street
South Street (Common to furthestmost bound of Union Street)	
Union Street	Wall Street

3. This section is intended to fulfill the following objectives:
 - (a). Enhance the social and economic viability of the Downtown by preserving property values and promoting the Downtown as an attractive place to live, visit, work and shop;

- (b). Conserve buildings and groups of buildings that are historically or aesthetically significant
- (c). Prevent alterations that are incompatible with the existing environment or that are of inferior quality or appearance.

B. Establishment of the Design Review Board

1. 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. *(Art. 26, 5/13/91 ATM)*
2. The Design Review Board shall consist of five (5) members who shall be appointed as follows:
 - (a). One member from the Planning Board appointed by the Planning Board.
 - (b). One member from the Historical Commission appointed by the Historical Commission.
 - (c). Three members at large appointed by the Board of Selectmen, at least one of which shall be a merchant or property owner in the District. If possible, one member should be a registered engineer or architect.
3. The term of the members of the Design Review Board shall be three years, except that when the Board is originally established, the Board of Selectmen shall make two of their appointments for a two-year term and the remaining appointment shall be for a one-year term.

C. Scope of Review

1. 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:
 - (a). All new structures,
 - (b). Additions to existing structures,
 - (c). Alterations to existing structures,
 - (d). Changes in site design.
2. The Design Review Board shall consider, at a minimum, the following standards in the course of the design review of a proposed activity:
 - (a). The proportions and relationships between doors and windows shall be compatible with the architectural style and character of the surrounding area.
 - (b). The relationship of a structure to the open space between it and adjoining structures should be compatible.
 - (c). The design of the roof should be compatible with the architectural style and character of the surrounding buildings.
 - (d). The scale of the structure should be compatible with the character of the surrounding buildings.
 - (e). Facades shall blend with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.
 - (f). 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.
 - (g). 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.

D. Procedure:

1. Applications for all activities subject to review by the Design Review Board shall be made by completing a building permit applications 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 board if Site Plan Approval, a Special Permit or a Special Use Permit is required
(Art. 26, 05/13/91 ATM)
2. 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 Board to make recommendations within the 21-day period shall be deemed a lack of opposition thereto.
(Art. 26, 05/13/91 ATM)

E. Administrative Action:

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.
(Art. 26, 05/13/91 ATM)

SECTION 9.03 ENVIRONMENTAL IMPACT STATEMENT

A. Applicability:

1. An Environmental Impact Statement (E.I.S.) may be required by the Planning Board for any non-residential or multi-family structure or use which could have significant, deleterious environmental or social impacts on the Town. This report shall be at the expense of the applicant.
2. At their discretion, the Planning Board in the case of a Special Permit or Site Plan Approval, or the Zoning Board of Appeals in the case of a Special Use Permit may require an E.I.S. upon the submittal of any request or petition for a Special Use Permit, Site Plan Review Approval or Special Permit.
3. An Environmental Impact Statement may be the basis for disapproval by the appropriate board.
4. 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.

B. Purpose:

The purpose of an environmental impact statement is to enable the officials of the Town to determine what methods shall be used to mitigate the environmental/social impacts and to minimize adverse effects on the natural resources of the Town from the requested activity.

C. Requirements:

1. In reviewing the statement, the 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.

2. The appropriate 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.
3. Upon the completion of the Scope of Work, the 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 Section 53F, Chapter 44, MGL. Upon the satisfactory completion of the work, the consultant shall be paid and the applicant shall receive the remaining interest.

D. Contents of Statement:

1. Physical Environment
 - (a). 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:
 - (a). 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.
 - (b). 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.
 - (c). Estimate increase of peak run-off caused by altered surface conditions, and methods to be used to return water to the soils.
 - (d). Describe sewage disposal methods and location of such. Evaluate impact of disposal methods on the quality of the surface waters and groundwater.
3. Town Services:
 - (a). Describe estimated traffic flow at peak periods and proposed site and off-site circulation patterns and traffic controls.
 - (b). Describe estimated effect/impacts of the project on police and fire protection services, public works, educational services, and the water supply system.
4. The appropriate Board may require the submission of information, which could be required by the MEPA unit if an EIR were required under applicable MEPA regulations.

SECTION 9.04 FLOOD PLAIN DISTRICTS

(Art. 23, 5/6/04 ATM)

- A. 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.
- B. Within Zone A, 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 50 lots or 5 acres, whichever is lesser, within unnumbered A zones.

- C. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply;
1. 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 100 year flood.
 2. If Paragraph C.1 above is satisfied, all new construction and substantial improvements shall comply with all provisions of Paragraphs A and B above.
 3. In zones A1-30 and AE, 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.
 4. In Zones A, A1, and AE, 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.

SECTION 9.05 RESIDENTIAL COMPOUNDS

A. Purpose:

1. To govern the subdivision of land within the R-40 District into not more than four 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.

B. General Requirements:

1. A Residential Compound may only be authorized under a Special Permit granted by the Planning Board. Subdivision approval, pursuant to Chapter 41, MGL is also necessary.
2. All access ways shall be privately owned and shall remain as such. All maintenance, including snow removal, street lighting, repaving and similar activities shall be the responsibility of the abutters to the private way.
3. 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).
4. All lots shall exceed the minimum requirements of 40,000 square feet or 60,000 s.f. if the lot is within the designated areas of the Water Resource Protection District (WRPD). The total number of lots shall be less than the number of lots allowed in a conventional subdivision of the land.
5. The parcel must have a minimum of fifty (50) feet of frontage on a public way (existing or proposed).

C. Application Process:

1. A pre-application preliminary/concept plan review and hearing with the Planning Board is required. The intent is to allow the Board the opportunity to review the proposal prior to the Special Permit process. It will also allow the Board to familiarize the applicant with the submittal/review process.
2. Eleven 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. They 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 25 days from the date of submittal and shall vote on such within 20 days after the hearing.
5. If the Board approves of the preliminary concept plan, the Planning Board, in so far 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.

D. 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 aforementioned 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.

E. Special Permit Review:

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 Board may grant a Special Permit under this Section 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 lower than 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 safe guards, which further the purpose of this Section.
3. A condition of the Special Permit shall be the recording of the required covenant at the 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 11.07 of these By-Laws, the recording of the approved definitive subdivision plan with the 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. *(Art. 21, 11/26/90 STM)*

F. Design Guidelines:

1. 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. The intent is to create better-shaped lots and to eliminate "strips" of useless frontage. *(Art. 21, 11/26/90 STM)*
2. The 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:
 - (a). underground utilities
 - (b). sidewalk requirements
 - (c). pavement widths
 - (d). cul-de-sac width and construction
 - (e). berms
 - (f). drainage
3. All private ways shall have a fire hydrant located pursuant to the Board of Water & Sewer Commissioners requirements. This hydrant shall be owned and maintained by the Town.
4. No future extension of the access road is permitted unless the provisions of Section 81-W, MGL of the Subdivision Control Law are adhered to.

G. Revisions to Special Permit:

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

SECTION 9.06 OPEN SPACE RESIDENTIAL DEVELOPMENTS

(Art. 10, 11/13/95)

A. Purpose:

1. To permit maximum flexibility and creativity in design for the development of single family subdivisions which 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.

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

B. 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). *(Art. 14, 05/10/99 ATM)*
2. OSRD's may only be authorized by a Special Permit as granted by the Planning Board ("the Board").
3. 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").
4. 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.
5. For parcels situated in Zone III, 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.
6. All lots and structures shall comply within the dimensional requirements of Table 9-1. Whenever possible, the Planning Board will require septic systems and housing units to be located outside of those areas protected by Zone II regulations.

C. 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 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.
 - (a). This plan shall be employed by the 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.
 - (b). The burden of proof shall be upon the applicant to prove the proposed lot(s) are suitable for building. The Board reserves the right to challenge the status of any lot and not allow such to be included in any definitive plan filing.
 - (c). 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.

2. A preliminary sketch plan of the proposed Open Space Residential Development shall be submitted. It shall contain the proposed location of the road(s), lots, drainage, and dedicated open space. General topography, (with 10' contours) major site features and adjacent streets shall also be shown.
3. The Board shall hold a public hearing and act on the preliminary plan within 45 days after the receipt of the application.
 - (a). 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.
4. If the preliminary conventional and conceptual OSRD plans are approved, the Board shall, in so far 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 disapproved by the Board.

D. Special Permit Application and Filings:

1. A Special Permit application for an Open Space Residential Development, shall include a definitive subdivision plan with eleven (11) copies. It shall be prepared in accordance with Section 3.02 of the subdivision regulations. In addition, the applicant shall provide the following information:
 - (a). A detailed analysis of the site, including wetlands, soil conditions, areas within the one hundred (100) year flood plain, trees over six inches in diameter in areas identified by the Planning Board, Water Resource Protection District delineation and natural, and/or man-made features and other items as the Planning Board may request;
 - (b). A description of the proposed design characteristics of the site pursuant to these regulations;
 - (c). Engineering data showing effects of proposed development on both on and off-site water resources (within 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;
 - (d). 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.

E. Dimensional and Design Requirements:

1. The requirements noted in Table 9-1 shall apply to all lots and dwelling units located within an OSRD. All accessory structures and uses shall comply with the requirements of Article 5 of these zoning By-Laws unless otherwise provided for herein.
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 9-1.
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.

TABLE 9-1*
DIMENSIONAL REGULATIONS

Min. Lot	Min. Yard	Minimum Distance	Maximum Building
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Dimensions	Dimensions		Between Structures			Height	
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 WRPD							
R-40	30,000	50	20	15	25	2.5	35

***Notes**

1. Within those areas governed by Zone II regulations, the minimum building lot area shall be “upland” as defined in MGL, Ch 131.
 2. Each dwelling unit shall have sufficient parking for two vehicles.
4. 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, 50 feet of screening & buffering is required in those locations where dwellings abut the OSRD. This is in addition to the required 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.
 - (a). 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.
 - (b). 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 Board and recorded at the Registry of Deeds with any approval.
 - (c). 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.
 - (d). 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 Board
 5. The 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 the 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.
 - (a). Swimming pools may not be located within 30 feet of a property line of an existing single-family dwelling abutting the OSRD. The Board may increase this distance after considering those items noted in #5 above.

F. Special Permit Review:

1. The Planning Board shall conduct a public hearing in accordance with the provision of these By-Laws.
2. The Board may grant a Special Permit under this Section only if it finds that; the proposed plan will be in harmony with the intent and requirements of this Section and these zoning 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 Board, it shall state its reasons therefore in writing.
4. The Planning Board may impose conditions as a part of any approval, which further the purposes of this Section and these By-Laws.
5. The Board shall require a performance guarantee to secure the proper completion of all infrastructure as well as the fulfillment of any conditions of approval.

G. Dedicated Open Space:

1. A minimum of forty-five percent 45% of the parcel shall become dedicated open space pursuant to MGL, Ch. 40A, Section 9. It shall not include land for paved parking lots, roads or for building lots. The Board may reduce this figure to a minimum of 35% if it determines there are unique circumstances (re: shape of parcel, topography, wetlands, etc.) which would individually or together preclude the construction of the OSRD.
 - (a). 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 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.
 - (b). Unless required by the Board, dedicated open space is not required between an existing dwelling(s) which is located within the OSRD and parcels abutting the OSRD.
2. Areas which have been designated as unsuitable for building (as per Chapter 131, MGL, Title V, or Zone A1 through the National Flood Insurance Program, or otherwise) may be included in the dedicated open space. However, a minimum of seventy percent (70%) of the required, dedicated open space shall consist of upland areas.
3. 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 feet) for drainage are permitted.
4. 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 so as 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 Board and applicant.

H. 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 non-profit 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 (MGL, Ch. 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.
 - (a). 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.

2. 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.

I. 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. However, 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.

SECTION 9.07 PLANNED DEVELOPMENT-HOUSING

- A. All Planned Development-Housing (PD-H) shall occur on parcels with a minimum of 200 acres and 100 feet of frontage within the R-40 Residential District.
- B. One 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.
- C. The gross number of bedrooms within the Development shall not exceed twice the number of dwelling units permitted. Within each Development, not more than ten (10) percent of the permitted dwelling units shall contain three 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.
- D. Twenty-five (25) percent of the parcel shall remain as open space.

SECTION 9.08 MUNICIPAL CONVERSIONS

- A. The intent of this Section is to administer the conversion of municipally owned property in a manner which will be in harmony with the intent of these By-Laws and which will ensure the integrity of abutting neighborhoods.
- B. 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. *(Art. 3, 12/6/99 STM)*
- C. 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. 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 may consider necessary.
- D. Upon the receipt of an application, the Board of Selectmen shall post a notice for a public hearing pursuant to Section 11.02. 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.

1. The Board shall conduct a public hearing within twenty-one (21) days from the receipt of an application.
- E. No sale, lease or occupancy agreement shall be concluded prior to the Board issuing a permit or until twenty-one (21) days have elapsed from the date of the public hearing.
1. The Board may set conditions or impose further restrictions as they consider necessary on any permit to meet the intent and requirements of these By-Laws.
 2. The Board may prohibit any particular use, even though the use may be permitted by the underlying zoning.
 3. 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.

SECTION 9.09 WATER RESOURCE PROTECTION DISTRICT

(Art. 19, 05/08/95)

A. Findings:

1. The groundwater underlying the Town is a significant source of its existing and future drinking water supply.
2. 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.
3. 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.

B. Purposes:

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

C. Scope of Authority:

This District shall be considered as overlaying other zoning districts and implements the Town's authority to regulate water use pursuant to MGL. Ch. 41, Section 69B. These regulations also implement the Town's authority under MGL. Ch. 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection (DEP). Any use not permitted in the other zoning districts shall not be permitted in the Water Resource Protection District (WRPD). Any uses permitted in the portions of the districts so overlaid shall be permitted, except where the Water Resource

Protection District imposes greater or additional restrictions and requirements, such restrictions and requirements shall apply.

D. Definitions:

1. **Aquifer:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
2. **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 or more months during which the average rainfall for each is fifty (50%) percent or less of the ten 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.
3. **DEP:** The Commonwealth of Massachusetts Department of Environmental Protection.
4. **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.
5. **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).
(Art. 23, 05/14/01 ATM)
6. **Future Potential Aquifers:** The land area outside the limits of Zone II and Zone III which contains stratified drift aquifer deposits with a saturated thickness greater than 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 this Section pertaining to Zone II areas also apply to Future Potential Aquifer Areas.
7. **Groundwater:** All the water found beneath the surface of the ground. In this Section, the term refers to the slowly moving subsurface water present in aquifers and recharge areas.
8. **Impervious Surface:** Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil.
9. **Leachable Waste:** Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.
10. **Mining of Land:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
11. **Primary Resource Areas:** Consists of Zone II, Future Potential Aquifer areas, and 250-foot setback areas from body of water.
12. **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. *(Art. 12, 11/20/00 STM)*
13. **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.

14. **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.
15. **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 (MGL) Chapter 21C, and 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.
16. **Toxic or Hazardous Waste:** As defined in 310 CMR 30.00.
17. **250-Foot Setback Area from a Body of Water:** An area consisting of a Body of Water and a surrounding protective setback, extending 250 feet from the edge of a Body of Water.
18. **Upland Area:** That area exclusive of wetlands and floodplains as defined within the Wetlands Protection Act (Chapter 131, Section 40, MGL as amended).
19. **Water Resource Protection District (WRPD):** 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 250 feet from the edge of a body of water.
20. **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.
21. **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.

E. Establishment and Delineation of the District:

A Water Resource Protection District (WRPD) is herein established. It 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 250 feet from the edge of a body of water. These areas are hereby collectively referred to as the WRPD and are described herein and which may or may not be delineated on a map at a scale of 1 inch to 1,000 feet, dated April 1989, entitled Water Resource Protection District and any revisions thereto.

This map shall be considered as superimposed over other districts established by these By-Laws. 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.

Where the bounds of the District, as delineated on the WRPD map, are in doubt or dispute, the burden of proof shall be upon the applicant(s) concerning the land in question to show where they should properly be located. At the request of the applicant(s) whose land has been designated as part of this District, the Town, acting by its Planning Board or Zoning 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(s) for all or part of the cost of the investigation.

F. Minimum Requirements:

The following are the minimum requirements for lots or portions of lots located inside a WRPD.

1. Within the Primary Resource Areas, individual sewage disposal systems shall be designed to receive or shall receive not more than 110 gallons of design flow per 10,000 square feet (s.f.) of upland area under one ownership per day, or 440 gallons of design flow per 40,000 (s.f.) of upland area under one ownership per day. *Art. 23, 05/14/01 ATM*
2. Within Zone III, individual sewage disposal systems shall be designed to receive or shall receive not more than 110 gallons of sewage per 10,000 square feet (s.f.) under one ownership per day, or 440 gallons of design flow per 40,000 (s.f.) under one ownership per day. *(Art. 23, 05/14/01 ATM)*
3. Within the WRPD, 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 (s.f.) of upland area or 550 gpd/40,000 square feet (s.f.) of upland area and for Zone III does not exceed 137.5 gpd/10,000 square feet (s.f.) or 550 gpd/40,000 square feet (s.f.).
 - (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, 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 5-1 of these By-Laws shall apply.
6. Within the WRPD, 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, 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, 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 WRPD shall be allowed provided that:
 - (a). The lot meets the minimum requirements found in Table 5-1, and
 - (b). The septic system, leaching area and reserve area are located outside the WRPD.
10. The mining of land or the removal of soil, loam, sand, gravel or any other mineral substances within the WRPD shall only be allowed pursuant to Section 13 of the Foxborough General By-Laws.
11. If a lot is located partly within the WRPD and partly outside of a WRPD, the requirements of this Section 9.09 shall apply only to that portion of the lot located within the WRPD.

G. Use Regulations For All Resource Areas:

Land uses and activities within the WRPD shall comply with all of the provisions of this Section.

1. Permitted Uses within WRPD:

- (a). Conservation of soil, water, plants and wildlife;
- (b). Non-intensive 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 the Prohibited Uses within the WRPD section, and are stored under cover in a manner which will prevent leakage;
- (c). Outdoor recreation, nature study, boating, fishing, foot, bicycle and/or horse paths, bridges and hunting where otherwise legally permitted;
- (d). Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- (e). Toxic or hazardous materials, as defined in MGL, Ch. 21E, 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 10%;
- (f). Publicly owned treatment works (POTWs), and their appurtenances, that meet the Groundwater Discharge Permit Program Requirements of 314 CMR 5.00.

(Art. 13, 11/20/00 STM)

- (g). All uses except for those uses that are prohibited within the WRPD or allowed only by Special Permit under the WRPD.

2. Prohibited Uses Within WRPD:

- (a) Disposal of liquid or leachable wastes other than normal sanitary waste;
- (b) 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 feet of clearance above the observed maximum water table;
- (c) Automobile graveyards and junkyards as defined in MGL, Ch. 140B, Section 1, or motor vehicle salvage operations;
- (d) Treatment or disposal works that are subject to 314 CMR 5.00 except the following:
 - i. 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);
 - ii. 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);

- iii. Treatment works approved by DEP designed for the treatment of contaminated ground or surface waters; and
 - iv. 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.
 - v. Publicly owned treatment works (POTWs), and their appurtenances, that meet the Groundwater Discharge Permit Program Requirements of 314 CMR 5.00.
(Art. 13, 11/20/00 STM)
- (e). 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.
 - (f). Stockpiling and disposal of snow or ice removed from highways or streets located outside of the WRPD that contains sodium chloride chemically treated abrasives or other chemicals used for snow and ice removal.
 - (g). Commercial establishments or municipal facilities for the washing, servicing, or repair of motor vehicles, airplanes or boats.
 - (h). Commercial establishments for the plating, finishing, etching, or polishing of metals or semiconductors.
 - (i). Manufacture of semiconductors or other electronic components.
 - (j). Chemical or bacteriological laboratories.
 - (k). 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.
 - (l). Storage of liquid petroleum products of any kind, except those incidental to:
 - i. normal household use and outdoor maintenance or the heating of a structure;
 - ii. waste oil retention facilities required by MGL, Ch. 21, Section 52A;
 - iii. emergency generators required by statute, rule or regulation; or
 - iv. 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 10%.
 - (m). Any use which involves as a principal activity, the manufacture, storage, use or disposal of toxic or hazardous material.
 - (n). The storage of animal manure, unless such storage is covered or contained in accordance with the specifications of the United States Soil Conservation Service.
 - (o). The use of septic system cleaners which contain toxic or hazardous materials, in accordance with 310 CMR 15.027.
 - (p). Dry cleaning establishments and/or coin or commercial laundries where cleaning is performed on the premises.
 - (q). Commercial establishments for painting, wood preserving, or stripping paint.
 - (r). Commercial establishments for printing, photocopying, or photographic processing.
 - (s). Commercial establishments for electronic circuit assembly.
 - (t). Storage of commercial fertilizers, as defined in MGL, Ch. 128, Section 64 unless such storage is within a structure designed to prevent the generation and escape of runoff or leachate.
 - (u). Landfilling of sludge and septage as defined in 310 CMR 32.05.

- (v). 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.
 - (w). Facilities that generate, treat, store or dispose of toxic or hazardous waste that are subject to MGL, Ch. 21C and 310 CMR 30.00, except the following:
 - i. very small quantity generators, as defined by 310 CMR 30.00;
 - ii. household toxic or hazardous waste collection centers or events operated pursuant to 310 CMR 30.90;
 - iii. waste oil retention facilities required by MGL, Ch. 21, Section 52A; and
 - iv. treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
 - (x). 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
 - (y). Commercial Kennels. *(Art. 3, 6/18/01 STM)*
3. Special Permit Uses Within the WRPD:
 The following uses may be allowed by the granting of a Special Permit.
- (a). Golf courses.
 - (b). Any use which will render impervious more than fifteen (15) percent or 2,500 square feet (whichever is greater) over that portion of the lot within WRPD.
 - (c). Any use outside of the WRPD, which directs surface-water flows from impervious areas greater than 2,500 s.f. into a WRPD.
 - (d). A pre-existing, non-conforming, 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.

Notwithstanding the foregoing, in connection with the development of a stadium and accessory uses thereto that are (i) within 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(s) (1) is not located within a Zone II or Zone III or within 250 feet of other bodies of water as delineated on the WRPD map, (2) is reviewed and approved by the Town of Foxborough Conservation Commission and/or the Massachusetts Department of Environmental Protection 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 9.13 of these By-Laws. *(Art. 3, 12/06/99 STM)*

H. Special Permit Review Process:

1. 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, non-conforming structures or uses within the WRPD pursuant to Section 10.01 of these By-Laws. The SPGA shall be responsible for assuring that all applications comply with the provisions of this Section.
2. Filing Procedure:
 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.
 - (a). A site plan conforming to the requirements and specifications of Section 9.01 Site Plan Review and this Section.
 - (b). 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.

- (c). 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.
- (d). 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, and all other applicable state and federal laws including obtaining a EPA identification number from DEP.
- (e). A description of proposed methods by which runoff from impervious areas will be recharged into the ground within the premises.
- (f). An erosion and sedimentation control plan.
- (g). 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:

- i. Wastewater per person: 7 pounds of nitrogen per year. Persons per dwelling unit: 4;
- ii. Lawn fertilizers: 2 pounds of nitrogen per 1,000 s.f. of lawn per year;
- iii. Road runoff: 0.19 pounds of nitrogen per day per lane mile;
- iv. Background nitrogen concentration: actual on-site measurements;
- v. Hydraulic conductivity: use on-site data;
- vi. Saturated thickness: use data from site-specific borings;
- vii. 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.

- 3. Approval or Disapproval:
After a public hearing, the SPGA shall coordinate, clarify and weigh the comments and recommendations of the various Town agencies; it shall then issue a written decision pursuant to Section 11.07 of these By-Laws.

I. Design Standards:

- 1. 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, that proposed alterations or extensions are not substantially more detrimental to water resources than the existing, non-conforming structure or use within the defined WRPD. It 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:

- (a). It meets the intent and specific criteria of this Section.
- (b). It will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the WRPD.
- (c). It will not adversely affect an existing or potential domestic or municipal water supply.
- (d). Groundwater quality at the downgradient boundary of the property shall not be allowed to violate State or Federal drinking water standards.
- (e). 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.
- (f). Where uses are partially outside of a WRPD, potential pollution sources such as on-site waste disposal systems and their reserve areas and drainage basins shall be located outside the WRPD, to the extent feasible.
- (g). 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-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.
- (h). 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.
- (i). 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 the Conservation Commission. The cost of monitoring, including sampling an analysis, shall be the responsibility of the applicant.
- (j). 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 its 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.

2. 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 agencies/boards.
3. For projects which require approval by other State or local 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.

SECTION 9.10 SINGLE FAMILY CONVERSION

(Art.15, 05/11/92 ATM)

- A. 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 as per the requirements of these By-Laws. The criteria listed herein shall be fulfilled prior to the granting of a Special Permit.
 1. Any home under consideration shall be occupied for a minimum of 2 years prior to the consideration of a Special Permit.
 2. All dimensional yard requirements (Article 5 of these By-Laws) shall be met or relief from such granted. This shall apply to the existing structure and any proposed additions.
 3. 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).
 4. The footprint of the structure shall not be increased by more than twenty (20) percent.
 5. 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.
 6. 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.
 7. All necessary state and local permits and requirements shall be adhered to and shall not compromise any of these regulations.
 8. That the building or structure in which the additional unit is located is occupied by the owner.
 9. That the additional unit share a common entrance in the existing structure.
 10. That within the WRPD the design sewage flow does not exceed the design sewage flow requirements established by the WRPD By-Law for the Zone II and Zone III and that no Special Permit be granted to exceed this flow for a non-conforming structure.

SECTION 9.11 WIRELESS COMMUNICATIONS FACILITIES

(Art 14, 12/9/96 & Art. 20, 05/12/97)

- A. Purpose:
The purpose of these regulations include: minimizing adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; minimizing the overall number and height of such facilities to only what is essential, and promoting shared use of existing facilities to reduce the need for new facilities.
- B. General Requirements:
 1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter or antenna, shall be erected or installed except in

compliance with the provisions of this Section. Unless otherwise noted herein, a Special Use Permit (SUP) is required from the Zoning Board of Appeals (the "Board"). Section 9.01 of these By-Laws shall not apply to these applications. Any proposed extension in the height, or construction of a new or replacement facility, shall be subject to a new application for a Special Use Permit. The Zoning Enforcement Officer 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.

2. Only freestanding monopoles, with associated antennae and/or panels are allowed as specified in Paragraph D 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 zoning 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 zoning 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.
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.
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 Use Permit holder.

C. 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 Foxborough Zoning Board of Appeals Application Instructions. For an application to be considered complete, three (3) 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, antenna 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 & advertising fees as noted in the application guidelines.

D. Design Guidelines:

The following guidelines 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.
 - (a). No monopole, or attached accessory antenna on a monopole, shall exceed 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.
 - (b). The height of antenna 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 antenna for federally licensed amateur radio operators may be increased to accommodate radio communications.
 - (c). Antenna or dishes located on non-residential buildings shall not exceed ten (10) feet in height above the roofline of the structure.
2. 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 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.
3. Satellite dishes and/or antenna 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 antenna 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.
4. 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.
5. All monopoles shall be located a minimum of 500 feet from the nearest residential structure.
6. 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.
7. 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).
8. 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.
9. 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.

E. Special Use Permit Review:

1. Applications for Special Use Permits shall be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
2. Applications for Special Use Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.
3. When considering an application for a wireless communication facility, the Board 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).
4. When considering an application for an antenna or dish proposed to be placed on a structure, the Board shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and streets(s).

SECTION 9.12 ADULT ENTERTAINMENT AND USES

(Art. 25, 05/11/98 ATM)

A. Findings:

1. 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.

B. Purpose and Intent:

1. It is the purpose and intent of this Section to address and mitigate the secondary effects of Adult Uses as defined and referenced herein.
2. 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 by 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.

C. Definitions:

1. **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 Section 31 of Chapter 272 of the Massachusetts General Laws (MGL). Examples of such are listed in this Paragraph C as items #2 through #7.
2. **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 MGL, Ch. 272, S. 31.

3. **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 MGL, Ch. 272, S. 31.
4. **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 MGL, Ch. 272, S. 31.
5. **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 MGL, Ch. 272, S. 31.
6. **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 MGL, Ch. 272, S. 31.
7. **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 MGL, Ch. 272, S. 31.
8. **Substantial or Significant Portion:** This term as used herein shall mean any of the following:
 - (a). Twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time; or
 - (b). Twenty percent (20%) or more of the annual number of gross sales, rentals, or other business transactions; or
 - (c). Twenty percent (20%) or more of the annual gross business revenue; or
 - (d). Twenty percent (20%) or more of the hours during which the establishment is open.

D. General Requirements:

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 criteria listed below, the requirements noted in SECTION 9.00 SPECIAL USE (S-1) DISTRICT, Paragraph D and in SECTION 11.05 SPECIAL PERMITS of these By-Laws. Note that the mercantile/retail restriction found in Section 9.00, Paragraph C shall not apply to these uses.

1. An adult use may not be located:
 - (a). Within seven hundred fifty (750) feet of a boundary line of a residential zoning district; or
 - (b). 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
 - (c). Within seven hundred fifty (750) feet of a lot line of any lot containing an establishment licensed under the provisions of MGL Ch. 138 Section 12; or
 - (d). Within five hundred (500) feet of any other Adult Entertainment Establishment or Use, or
 - (e). Within 750 feet of the Washington Street layout lines.
2. Signs for an Adult Entertainment Establishment or Use must meet the dimensional requirements of Section 15B of the Foxborough General By-Laws. In addition, no sign,

advertisement, display or other promotional material which 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 Section 63 of Chapter 119 of the General Laws or Section 28 of Chapter 272 of the General Laws.
5. Any Special Permit issued under this By-Law 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 Section 63 of Chapter 119 of the General Laws or Section 28 of Chapter 272 of the General Laws, such Special Permit shall immediately be null and void.
 - (a). No Special Permit issued under this Section shall become valid or in full force and effect until and unless the owner of the property containing such Adult Use shall supply to the Zoning Enforcement Officer proof of the recording of said Special Permit with the Registry of Deeds.
6. Any Adult Use in existence prior to the adoption of this Section 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.

E. Special Permit Application Requirements and Procedures:

1. A completed application and form must be submitted pursuant to the Planning Board Special Permit Rules & Regulations (on file and available at the Town Clerk and Planning Office). The completed application must also include:
 - (a). Name and address of the legal owner of the proposed establishment or use;
 - (b). Name and address of all persons having a lawful, equity or security interest in the Adult Establishment or Use;
 - (c). 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 MGL, Ch. 119, S. 63 or MGL, Ch. 272, S. 28;
 - (d). Name and address of the manager of the Adult Establishment or Use;
 - (e). Proposed provisions for security within and without the Adult Establishment or Use;
 - (f). The number of employees; and
 - (g). The present and proposed physical layout of the interior of the Adult Establishment or Use.
2. A public hearing will be held pursuant to the requirements of MGL, Chapter 40A, Section 11.
3. A decision will be rendered by the Board within the time frames and guidelines noted in MGL, Chapter 40A, Section 11 and 9 respectively.

SECTION 9.13 ECONOMIC DEVELOPMENT AREA OVERLAY DISTRICT

(Art. 3, 12/6/99 STM)

- A. Establishment and Delineation of District: (See Appendix A for map)
There is hereby established the “Economic Development Area Overlay District” which shall be governed by the provisions of this Section 9.13. The Economic Development Area Overlay District encompasses the area more particularly delineated on the map entitled “Economic Development Area Overlay District, Foxborough, MA.” The Economic Development Area Overlay District shall be an overlay district on the zoning map established by Section 3.01. This map shall be considered as superimposed over other districts established by these By-Laws. 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 together with any explanatory material thereon, is hereby incorporated in and made a part of these By-Laws. Hereinafter in this Section 9.13, the Economic Development Area Overlay District shall sometimes be referred to as the “District.”
- B. Purpose:
It is the purpose of this Section 9.13 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 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.
- C. Applicability:
Buildings and land uses within the District shall be governed by the pertinent regulations within the Special Uses (S-1) District, except as modified by the provisions of this Section 9.13. Where the base zoning regulations of the Special Use (S-1) District differ from the provisions of Section 9.13, the provisions of Section 9.13 shall govern.
- D. Uses in the Economic Development Area Overlay District:
(a) The following uses shall be permitted as of right as either primary or accessory uses within the Economic Development Area Overlay District, notwithstanding anything contained in “Section 4.00 Table of Use” 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 set forth in Section 9.13.E.6.
 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, provided further that for the purpose of this provision, mercantile or retail uses within a stadium or associated directly with and accessory to the 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 the 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 9.13D.(b).1 below.
11. Pedestrian crossovers located over a Street or Way, thoroughfare, highway or driveway.

(Art. 24, 05/09/05 ATM)

- (b) 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 NFL 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 sport-related structures for similar uses.
 3. 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 by the Board of Selectmen at a stadium within the District. For (i) all NFL (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 9.13.F.(b)(v). 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 11.05 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.
 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.
- E. Development and Dimensional Standards in the Economic Development Area Overlay District.
1. Yards: All yards shall comply with the requirements of Article 5 and Table 5-2 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. *(Art. 24, 05/09/05 ATM)*
 2. Height: The height limitations of Article 5 and Table 5-2 shall not apply to buildings or structures in the District. The height limitations applicable to buildings or structures in the District shall be as follows:
 - (a) Section 5.04.A shall apply to buildings or structures within the District.
 - (b) The building height of any structure located less than three hundred (300) feet from the layout of Route 1 shall not exceed forty (40) feet, provided that, upon the granting of a Special Permit pursuant to the requirements set forth in Section 9.13.E.2.(e). 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 450 feet above mean sea level.
 - (c) 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 1 and (ii) greater than 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 450 feet above mean sea level.
 - (d) 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.
 - (e) Deviations within the District from the height requirements of this Section 9.13.E.2. 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 11.05 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 non-residential buildings.
 3. Frontage: The provisions of Sections 9.00.B.1 and 9.00.B.1.a. shall apply to lots within the District.
 4. Lots: Coverage and Definition
 - (a) The maximum impervious surface coverage limitations within the District shall be as follows:

- (1) 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.
- (2) For any lot on which a stadium is located, the maximum impervious surface coverage shall not exceed ninety-five (95%) percent.
- (b) Notwithstanding any other provisions of these By-Laws except Section 9.13.E.4.(a).(2) above, for the purposes of applying the requirements of these By-Laws to this District, 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.

(Art. 24, 05/09/05 ATM)

5. Buffer Strips:

- (a) Buffer strips shall comply with the applicable minimum requirements set forth in Articles 6 and 9, **except that** such requirements shall not apply to:

- (i). 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;

(Art. 24, 05/09/05 ATM)

- (ii). the front yard of any lot located along Route 1, except that a minimum front yard landscaped strip of 15 feet along Route 1 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.

- (iii). the access way through residential districts allowed under Section D.(b).3 of this Section 9.13, 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 (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 Department of Environmental Protection of the Commonwealth of Massachusetts.

- (b) The 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 Board and suitable for recording at the Registry of Deeds with any approval.

- (c) Deviations within the District from the buffering and screening requirements of this Section 9.13.E.5. 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 11.05 of these By-Laws. Among these and other concerns, the 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.

6. Parking Standards and Location.

Off-street parking in the District shall comply with the following standards and location requirements and shall not be subject to the provisions of Article 7, except as otherwise provided in this Section 9.13:

- (a) Table 7-2 Minimum Off-Street Parking Requirements shall govern the number of parking spaces required for uses in the District; except that there shall be no minimum off-street parking requirement applicable to a stadium use in the District.
- (b) Sections 7.01.A.7, 7.01.A.8, 7.02.B and 7.02.F shall apply to off-street parking in the District.
- (c) 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.
- (d) Shared, multi-use parking is permitted in the District and will be counted in determining whether a use has the requisite number of spaces.
- (e) Multi-level parking structures shall be permitted in the District, provided that such structures comply with all dimensional and other zoning requirements set forth in the By-Laws.
- (f) Off-street parking spaces are allowed in the front yard of lots with frontage on Route 1 provided that a fifteen (15) foot landscape strip is maintained in accordance with Section E.5.(a).(ii) of this Section 9.13.
- (g) The maximum curb cut for curb cuts in the District shall not exceed forty (40) feet in width unless (i) otherwise required by non-local 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.
- (h) All parking spaces shall be suitably marked with striping.
- (i) The surfacing requirements for parking lots within the District shall be as follows:
 - (1). 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.
 - (2). All parking areas required under Table 7-2 for uses other than those set forth in Section 9.13.E.6.(i).(1). above shall be paved with bituminous concrete or cement concrete.
- (j) 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 non-paved 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.

- (k) 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 7.01.A.5 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.
- (l) Parking areas will have controlled points of access and egress. All driveways and access lanes shall comply with the location requirements of Section 7.02.D, except where such driveways and access lanes comply with an access plan approved by the MHD as part of a Section 61 Finding.
- (n) Non-residential 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 9.13.D.(b).3 shall not be subject to this limitation.
- (o) Deviations within the District from the parking standards and location requirements of this Section 9.13.E.6 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 11.05 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.

F. Site Plan Review for Economic Development Area Overlay District.

- (a). Site Plan Review, pursuant to Section 9.01, will be required for any new building, any addition to any existing building or structure or any change of use in the District. Applicants shall not be required to obtain Special Permits with respect to proposed development plans and/or uses which comply with the requirements set forth in this Section 9.13. Site plan review is not required for those uses which require a Special Permit pursuant to this Section 9.13, unless otherwise required to comply with the requirements of Section 9.09.
- (b). In addition to the standards and requirements set forth in Section 9.01, applicants seeking Site Plan Review approval within the Economic Development Area Overlay District shall comply with the following additional standards and requirements:
 - (i) 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 which (i) will increase traffic volumes 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 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).
 - (ii) 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.

- (iii) 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.
- (iv) To the extent feasible, except with respect to the access way through residential districts allowed under Section 9.13.D.(b).(3)., 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.
- (v) Any access way through a residential district that is allowed pursuant to Section D.(b).3 of this Section 9.13 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 the 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.
 - (c) The standards and requirements set forth in Section 9.01 and this Section 9.13 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.
 - (d) Violation of any condition of the Planning Board's Site Plan Approval shall be subject to the enforcement provisions of Section 11.11 of these By-Laws.

SECTION 9.14 CHESTNUT-PAYSON OVERLAY DISTRICT (CPOD)

(Art. 4, 12/2/02 STM)

A. Establishment and Delineation of District: (See Appendix B for map)

There is hereby established the “Chestnut-Payson Overlay District (CPOD)” which shall be governed by the provisions of this Section 9.14. The Chestnut-Payson Overlay District encompasses 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. The Chestnut-Payson Overlay District shall be an overlay district on the zoning map established by Section 3.01. 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. Hereinafter in this Section 9.14, the Chestnut-Payson Overlay District shall sometimes be referred to as the “CPOD”.

B. Purpose:

It is the purpose of this Section 9.14 to supplement existing zoning regulations to provide for the following:

1. 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 152 total residential units in the CPOD.
2. 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. 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. 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. Provide for an innovative approach to mixing building types and controlling densities.

C. Special Permit in the Chestnut-Payson Overlay District:

In this District, 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.

D. Uses Allowed and Not Allowed in the Chestnut-Payson Overlay District:

1. All uses allowed in the underlying zoning district shall be allowed for those parcels in the CPOD, unless amended by this section.
2. The following uses, as specified in the referenced subsection of Section 4.00 TABLE OF USE, that may be permitted within the underlying zoning district are not permitted within the CPOD:
 - B.4. Temporary parking lots, whether paved or unpaved, serving uses with seating capacities of over 7,500 people within the Special Use Zoning District.
 - G.7. Mobile homes/travel trailers.
 - I.1. Cemeteries

- L.2. Seasonal migrant workers quarters, mobile home or watchman's quarters as accessory uses to permitted Industrial uses.
 - L.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, equals or exceeds 10,000 pounds.
3. The following additional uses not specified in Section 4.00 TABLE OF USE shall be allowed by Special Permit in the CPOD, if the use is not allowed in the underlying zoning district:
- (a) Attached Single-family Housing
 - (b) Assisted Living Facilities
 - (c) Open Space Residential Developments
 - (d) Sewage treatment plants and sewage treatment facilities
 - (e) Water tanks and towers, emergency generators, water filtration plants, utility facilities, power plants and substations.
4. If the following uses, as specified in the referenced subsection from Section 4.00 TABLE OF USE are not permitted in the underlying zoning district they shall be allowed by Special Permit in the CPOD:
- B.3. Parking lots constructed to the standards found in Article 7 of these by-laws.
 - C.1. All land and buildings which 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 except for other uses specified in this Use Group C. Sale of high hazard materials or products shall be governed by the provisions noted in Use Group A.2. above.
 - C.2. Mercantile/retail uses, except restaurants with seating, which use more than twenty five percent (25%) of the gross area of a building.
 - D.1. All land and buildings which 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, except for other uses specified in this Use Group D.
 - D.2. Research and Development facilities
 - D.3. Laundry or dry cleaning facilities
 - E.1. Theatres
 - E.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.
 - E.7. Private Schools
 - F.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.
 - G.3. Dormitories
 - G.4. Multifamily dwellings
 - I.2. 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.
 - I.5. Telecommunications/Wireless Communications Facilities (see Section 9.11) as accessory use.
 - I.6. Commuter rail stations, bus stations, and related or accessory structures and improvements.

- J.2. Passive outdoor recreational uses such as beaches, parks, picnic groves, and other similar uses, but not including amusement parks.
- J.3. Low density recreational uses which predominantly occur within a building such as swimming, tennis, skating and other similar uses.
- J.6. Outdoor recreational uses including, golf driving range, miniature golf course, 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.
- L.7. Accessory uses to multifamily dwellings which are located within the principle building and are limited to: eating establishments; personal service establishments; retail sales establishments selling convenience merchandise.
- L.8. Accessory Structures to multifamily structures.
- L.9. Nonresidential Accessory Uses and structures which do not exceed fifteen (15) percent of the gross area of the principal building or builds.

E. Dimensional Requirements for Uses Allowed in the Chestnut-Payson Overlay District:
The following additions are to be made to Table 5-1:

Table 2*

USE	FRONTAGE	YARDS			BUILDING HEIGHT		LOT COVERAGE	DENSITY	MIN. LOT WIDTH	
		Front	Side**	Rear	Stories	Feet			Dist. from street	Width dimen.
CPOD	In feet	In feet			Stories	Feet	Maximum	Maximum units / acre		
Attached Single Family Housing	30	10	0	20	2.5	35	85%	3 units/ 32,250 sq ft add'l units 6,125 sq ft	0	0
Multi-family Housing (incl. Dormitories)	200	20	20	20	3	40	85%	3 units/ 32,250 sq ft add'l units 6,125 sq ft	100	67
Assisted Living, Age Restricted, Senior Housing	200	20	20	20	3	40	85%	7	100	67
Non-residential (including Hotel/Motel)	200	15	0	20	3	40	85%	N/A	0	0

***NOTES TO TABLE 2** - (These notes only apply to the specific uses listed in the table)

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 5-1, Section 5.02, 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 30%, 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 non-residential uses in the CPOD shall be eighty-five (85) percent.
8. Those dimensional restrictions established in Table 5-2 that are imposed when a non-residential use abuts a residential district do not apply to the CPOD.
9. The provisions of Section 6.02, Paragraphs A and B 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.

** A setback of 20 feet will be required between buildings in the CPOD and existing residential developments in adjoining districts.

F. Parking in the Chestnut-Payson Overlay District:

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

1. Parking requirements as found in Article 7 of these zoning By-Laws, as most recently amended, except that the following minimum requirements shall be applicable within the CPOD:

Use	One (1) Space Per
Assisted Living	4 Dwelling Units

2. The Off-Street parking requirements set forth above and in Table 7-2 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 7.00 D.

G. Criteria and Procedures for Review of Special Permits in the CPOD:

Applications for Special Permits for the CPOD shall be made in accordance with Article 11 of these By-Laws, as well as M.G.L. Chapter 40A. In addition, the following criteria and procedures apply:

1. The Application Process:

In accordance with Sections 11.05 and 11.07, the Planning Board shall act as the Special Permit Granting Authority. 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:

- (a) The completed application form and the applicable fee to address the administrative, advertising and review costs of the Town.
- (b) Ten (10) copies of the application package and plans.
- (c) Site information as required in Paragraph 2, below.
- (d) A certified list of abutters within 100 feet of the property line.

2. Plan Requirements

Applications for a Special Permit in the CPOD shall meet the requirements as set forth in Section 9.01 Paragraph D: Plan Requirements for Site Plan Review. 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.

3. Site and Building Design Requirements

Applications for a Special Permit in the CPOD shall meet the requirements as set forth in Section 9.01 Paragraph E: Site and Building Design Requirements for Site Plan Review.

4. Criteria for Review

Prior to granting a Special Permit, the Planning Board shall make a determination that the proposed activity that is the subject of the application for a Special Permit is consistent with the general purposes of this By-Law as set forth in Section 1.00.

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

- (a) 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.
 - (b) 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:
 1. excessive noise, level of illumination, glare, dust, smoke or vibration that is higher than levels now experienced from uses permitted in the surrounding area;
 2. emission or discharge of noxious or hazardous materials or substances;
 3. pollution of water ways or ground water; or
 4. transmission of signals that interfere with radio or television reception.
 - (c) 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.
 - (d) 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.
 - (e) 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.
5. 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.
6. Conditions for Approval:
In addition to the conditions, standards and criteria as may be set forth in Article 11 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:
- (a) Regulation of the number, design and location of access drives or other traffic features of the proposed use;
 - (b) 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 of this By-Law;

- (c) Limitations on the period of time this Special Permit shall be in effect;
 - (d) Such other limitations as may be reasonably related to reducing undue adverse impact on the surrounding area.
7. Revisions to an Approved Site Plan
- (a) 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 Board at a regularly scheduled meeting prior to completion of such on the landscape. Changes or modifications shall only be authorized in writing.
 - (b) 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.
 - (c) The 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.
8. 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.