ZONING BY-LAW

TOWN OF FRAMINGHAM, MASSACHUSETTS

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FRAMINGHAM PLANNING BOARD

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TOWN OF FRAMINGHAM

ZONING BY-LAW

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I. GENERAL

A. Authority

This Zoning By-Law is adopted in accordance with the provisions of the General Laws, Chapter 40A.

B. Purpose

The purpose of this By-Law is to establish such regulations for the uses of premises, as will protect and promote life, health, safety, morals, convenience and general welfare of the townspeople. In their interpretation and application, the provisions of this By-Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, comfort, convenience or general welfare.

It shall also be the purpose of this By-Law to enhance the public welfare by increasing the supply of affordable housing in the Town of Framingham. To accomplish this purpose, all applicants for development or re-development (as defined in Section V.H.2.) of ten or more dwelling units shall be required to provide or to enable the provision of Affordable Housing Units to home buyers or renters in accordance with requirements and standards set forth in this By-Law and the Affordable Housing Regulations of the Planning Board. Such development of housing, including those proposed under a special permit process pursuant to G. L. 40A sec. 9, and those proposed under the Subdivision Control Law G. L. c. 41 sec. 81K to 81GG inclusive, including divisions of land that do not require subdivision approval, shall require a special permit from the Planning Board, as set forth under Section V.H. Affordable Housing.

Any new Housing Plan/Policy or change to an existing Plan/Policy shall be submitted to the Town Meeting for approval by a two-thirds vote of Town Meeting.

It is not intended by this By-Law to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or By-Law, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; provided, however, that where this By-Law imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provision of law or By-Law or by such rules or regulations or permits, the provisions of this By-Law shall control.

C. Basic Requirements

Except as hereinafter specified in Section I.D., no building, structure, or land shall be used and no building or part thereof or other structure shall be erected, raised, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located, except that nothing in this By-Law shall affect the existing use of any building or lot.

D. Non-Conforming buildings, structure, uses and lots

1. Applicability

The provisions of this By-Law shall not apply to any building, structure or use lawfully in existence or lawfully begun, or to a special permit or building permit issued before the first publication of notice of the public hearing on any amendment hereto, but shall apply to any alteration of a building to provide for its use for a purpose, or in a manner, substantially different from the use to which it was put before the alteration.

2. Omitted

3. Purpose and Intent

It is the intent of this By-Law to ensure that nonconforming uses will ultimately comply with the use requirements of the Zoning By-Law.

4. Floor Area Ratio

The Zoning Board of Appeals shall not grant a special permit for an increase in Floor Area Ratio greater than what is allowed in the district in which it is located.

5. Change to Nonconforming Single or Two Family Building or Structure

a. The Zoning Board of Appeals shall allow reconstruction, extension or alteration of a lawful, pre-existing nonconforming residential single or two family structure where the Board finds that the reconstruction, extension or alteration does not increase the nonconforming nature of the structure.

b. The Zoning Board of Appeals may authorize, by a finding under G. L. c. 40A, § 6, an alteration, extension, or structural change to a lawful pre-existing nonconforming residential single or two-family structure provided such extension or alteration is not substantially more detrimental to the neighborhood than the existing nonconformity.

c. Alteration, reconstruction, extension or structural change (collectively "alteration") to a non-conforming single or two family residential structure, which is considered a non-conforming structure solely due to its location on a lot with insufficient area, width and/or frontage, shall not be considered an increase in the non-conforming nature of the structure and shall be permitted by right if, at the time of application, the structure and alteration will comply with all then current open space, lot coverage and building height requirements, and the alteration will comply with all then current setback requirements, as set forth in Section IV.E. of these By-Laws, and further provided that such alteration does not result in the conversion of a structure from a single family use to a two-family use.

d. The provisions of this sub-section D shall not apply to the alteration, extension, or structural change (collectively referred to herein as "alterations") to a single or two family residential structure lawfully in existence under the following circumstances:

1. the proposed alterations do not increase the maximum height of the pre-existing structure; and
2. the proposed alterations comply with the requirements for maximum lot coverage, or if they do not comply, the proposed alterations do not result in an increase in lot coverage; and
3. the proposed alterations comply with setback requirements, or, if they do not comply, the proposed alterations do not result in a decrease in the distance between any lot line and the nearest point of the structure; and
4. the proposed alterations comply with the requirements for minimum open space, or, if they do not comply, the proposed alterations do not result in a decrease in the distance between any lot line and the nearest point of the structure.

For the purpose of this Zoning By-law, an alteration, reconstruction, extension or structural change meeting the criteria set forth in this subsection d. shall not be deemed to increase the nonconforming nature of the structure, and is allowable as a matter of right. This provision does not preclude the Zoning Board of Appeals from determining that other alterations, extensions or structural changes to a nonconforming single or two family home do not increase the nonconforming nature of the structure.

6. Change of Use

Except in residential districts, the Zoning Board of Appeals may grant a special permit for a change of a lawful, pre-existing, nonconforming use, provided the Board makes the findings set forth in Section VI.E.3.a. of the Zoning By-Law and the following mandatory findings:

a. Said change in use is less detrimental to the abutting properties, ways, and the neighborhood than the existing nonconformity; and

b. Sufficient mitigating measures will be implemented as a requirement of the special permit to compensate for any adverse effects noted in reports from town boards; agencies: reports from consultants; and information acquired from public hearings**.**

7. Non-use or Abandonment of a Nonconforming Use or Structure

Any use or structure loses its protection as nonconforming when the non-conformity is abandoned.

a. Any nonconforming use or structure that is made conforming as to any aspect has abandoned the nonconforming protection as to that aspect.

b. Any nonconforming use that is not used for two years loses its protection as a pre-existing nonconforming use. Any nonconforming structure that is not used for any purpose for two years loses its protection as a pre-existing nonconforming structure.

c. Evidence of abandonment may include, but shall not be limited to, one or more of the following, which shall not be conclusive of abandonment:

(1) Removal of customary equipment or supplies for the operation of the use.

(2) Discontinuance of electric, gas or other utility services.

(3) The passage of two years after issuance of a notice of an unsafe structure by the building inspector, without such condition having been repaired.

(4) Failure to renew any certificate or license that is required for the conduct of business.

8. Destruction or Damage

A lawful, pre-existing, nonconforming single or two family structure, which has been destroyed or damaged by fire or other casualty may be re-established, restored or rebuilt within two years of occurrence of the damage or destruction. Re-establishment, restoration or rebuilding shall be permitted provided that there is no increase in the degree of the non-conformity, and the reconstruction conforms to the current requirements of the By-Law to the maximum extent practicable.

9. Unsafe Buildings

Nothing in this By-Law shall prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared unsafe by the Building Commissioner.

10. Exemptions from Dimensional Regulations

a. Single Lot Exemption for Single and Two-Family Use

A lot for single or two-family residential use shall be exempt from any increase in area, frontage, width, setback (i.e., yard), lot coverage or depth requirements resulting from the adoption or amendment of this By-Law, provided that:

1. The lot was not held in common ownership with any adjoining land at the time of recording or endorsement, whichever occurs sooner;

2. The lot conformed to existing zoning requirements at such time;

3. The lot has at least 5,000 square feet of area and at least 50 feet of frontage; and

4. The lot conforms to the open space and lot coverage requirements and to any other provisions of this By-Law except for lot area, frontage and setback requirements.

b. Common Lot Exemption for Single and Two-Family Use

A lot for single or two-family residential use shall be exempt from any increase in area, frontage, width, setback (i.e., yard), lot coverage or depth requirements resulting from the adoption or amendment of this By-Law for five years from the effective date of such adoption or amendment, provided that:

1. The plan for such lot was recorded or endorsed as of January 1, 1976;
2. The lot was held in common ownership with any adjoining land as of January 1, 1976;

3. The lot conformed to the existing zoning requirements as of January 1, 1976;

4. The lot has at least 7,500 square feet of area and at least 75 feet of frontage.

This exemption shall not apply to more than three such adjoining lots held in common ownership.

E. Definitions

1. Terms Defined

For the purpose of this By-Law, the following terms shall have the meanings given in the following clauses, unless a contrary intention clearly appears:

Accessory Drive-thru: Drive-thru facilities associated with any commercial or retail business use; except drive-thru facilities associated with a restaurant or Fast Food Establishment.

Accessory Residential Garage: A garage on the same lot or in the same building to which it is accessory and in which no business or industry is conducted, except such necessary repair work as is not of a hazardous nature. Garage space shall not be provided on such lot for more than two motor vehicles, except that space for one additional motor vehicle may be provided for each 2,000 square feet of area by which the lot area exceeds 4,000 square feet, but space shall not be provided for more than five motor vehicles in any case. Not more than one commercial vehicle shall be stored on such lot.

Accessory Use: A subordinate use, building or structure clearly incidental to and customarily found in connection
with the principal use, building or structure and which is located on the same lot with the main use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

Active Farm Parcel: The portion of the Active Farm that shall have an Agriculture Preservation Restriction (APR) placed on the area in perpetuity. A minimum of 70 percent of the Active Farm shall remain as an Active Farm in perpetuity.

Active Farm: Land located in the Town of Framingham utilized for agriculture, having a minimum of 15 acres, located in a R-3 or R-4 Single Family Residential Zoning District, enrolled in M.G.L. c. 61 and/or 61A and consisting of one or more contiguous parcels in one ownership throughout or any combination of parcels of land consolidated under a Purchase and Sale Agreement where all such owners jointly apply for an Agriculture Preservation Development Special Permit and that do not have a Conservation Restriction or Agricultural Preservation Restriction on the Active Farm.

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

Adult Video Store: An establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

Adult Motion Picture Theater: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

Adult Live Entertainment Establishment: Any establishment which displays live entertainment which is distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

Agriculture and/or Farm: These terms shall include farming in all of its branches and the cultivation and tillage of soils; dairying; the production, cultivation, growing and harvesting of any agricultural, floriculture or horticultural commodities; the growing and harvesting of forest products upon forest land; the raising of livestock (including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees and fur-bearing animals); and any forestry or lumbering operations performed by a farmer.

Agricultural Preservation Restriction (APR): A restriction and agreement in perpetuity with owners of an Active Farm Parcel, in accordance with M.G.L. c. 184, § 31. An APR is a legally binding set of restrictions that is monitored and enforced by the Massachusetts Department of Agricultural Resources, a town conservation commission and/or a land trust. Owners of Active Farms may voluntarily enter into these agreements by selling the APR for a negotiated price based on the appraised value of the restriction.

Amusement Park: An outdoor amusement facility of a permanent nature, including carnival or midway, with any or all of the following: rides, water slides, concession stands, and games of chance.

Applicant: The owner(s) of land and such duly authorized agent(s), representative(s), assign(s) or attorney(s). The owner(s) of land must be included as an applicant to an application, even if not the proponent. Persons or entities other than the owner may also serve as co-applicants in addition to the owner(s), however, in each instance, such person or entity shall file with the appropriate application authority, sufficient written evidence of authority to act by or on behalf of the owner(s).

Assisted Living Housing: Housing units and associated facilities designed for the elderly who require daily assistance but who do not require nursing home care. An Assisted Living Housing Unit consists of the same characteristics as a Congregate Living Housing Unit. Associated facilities typically provide additional services beyond Congregate Housing, including daily meals and personal services, medical monitoring and supervision. Assisted Living shall refer to certified Assisted Living Residences only, as defined and certified under G.L. c. 19D, and as regulated under 651 CMR 12.00.

Automatic Carwash: Any facility, its structures, accessory uses, paved areas or grounds used wholly or partly to wash and clean the exterior of passenger automobiles, vans, pick-up and panel trucks using conveyors to move the vehicle or equipment that moves over or around the vehicle or other automated equipment intended to mechanically wash such vehicles and which is open to the public.

Automobile Dealer: Sale or rental of motor vehicles or trailers, including, but not limited to, used car dealers; sale and installation of vehicle accessories conducted within an enclosed structure, subject to special regulations Section IV.D., herein. Accessory servicing and repair shall be permitted if sufficiently sound-insulated and confined to premises to protect the neighborhood. A used car dealer may not be located within 1,000 feet of another used car dealer unless it is a legal pre-existing use of the land. Such required separation distance shall be measured from all property lines of the proposed use.

Automobile Repair: Automobile repair garage or paint shop facility located principally within an enclosed structure, subject to special regulations Section IV.D., herein. No vehicles other than those under or awaiting repair or awaiting delivery or pick-up after repair shall be stored overnight on the premises except commercial vehicles used in connection with the principal use.

Automobile Storage: Open or enclosed storage of vehicles, excluding outdoor storage of junk or inoperative motor vehicles. The use shall be subject to special regulations Section IV.D., herein.

Bed and Breakfast: A private owner-occupied single-family residence with guestrooms for rent.

Boarding House (conversion): Conversion of non-commercial structure into a boarding or lodging house. The structure for which the special permit is sought shall not be enlarged by any change to the exterior walls or roof.

Buildable Parcel: The portion of the Active Farm that may be used for cluster development. The Active Farm Parcel shall not be included in this area.

Building: Any structure or portion thereof, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, process, equipment, goods or materials of any kind or nature.

Carwash: Automatic and self service carwashes; subject also to the provisions of Section V.C.

Change in Use: A change in part or all of an existing structure from one use category or purpose to another use category or purpose. In a mixed or multi-use facility, an exchange or rearrangement of principal use categories or components shall not be construed as a change in use unless the net change in any of the factors in the Table of Off-Street Parking Regulations, Subsection IV.B.1 (a), requires an addition of l0 or more parking spaces to the amount required by this By-Law prior to the change in use. The calculation of change in use of gross floor area shall be determined by the Building Commissioner based on the aggregate of all changes in use undertaken within a consecutive three year term.

Common Open Space: A portion of the Buildable Parcel that may be used for active, passive or leisure activities by the residents of the Agriculture Preservation Development.

Common Open Space Area: A portion of the Open Space Buildable Parcel that may be used for active, passive or leisure activities by the residents of the Open Space Cluster Development.

Conservation Restriction (CR): A restriction and agreement in perpetuity for the protection of Open Space, in accordance with M.G.L. c. 184, § 31. A CR is a legally binding set of restrictions that is monitored and enforced by the Massachusetts Department of Conservation Services, the Town's Conservation Commission and/or a land trust.

Congregate Living Housing: Housing units and associated facilities designed for elderly occupants who do not require constant supervision. A Congregate Living Housing Unit consists of a room or group of rooms for one or more persons with provisions for living and sleeping for the exclusive use of the individual or household unit. The Congregate Living Housing unit may provide exclusive cooking and sanitary facilities. Associated or shared facilities may include common dining facilities with limited meals, housekeeping services and common space for indoor and outdoor social, educational and recreational activities.

Cultural Center: A theater, museum, or gallery or any combination thereof.

Cultural and Educational Centers: Centers for cultural and education programs, events and performances, with indoor and outdoor seating capacity not to exceed a total of 200 seats. Only one such facility may be permitted per District.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Drive-thru: Drive-thru facility or automatic teller machine (ATM) as a principle use; subject also to the provision of Section V.J.

Educational/Charitable/Religious: Charitable and philanthropic buildings for religious purposes or educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structure shall be subject to regulations concerning the bulk and height of structures, yard size, lot area, open space, parking, building coverage, and site plan review requirements in accordance with the provisions of this By-Law.

Enlargement: An increase in the size of an existing structure.

Extension: An increase in the amount of existing floor area within an existing building.

Family day care home: An accessory use to a dwelling, allowing not more than six children in care, provided that said dwelling and provider have received a license from the Office for Children to provide family day care, as defined by Chapter 282 of the General Laws.

Farmer: A person engaged in agriculture or farming as previously defined, or on a farm as an incident to or in conjunction with such farming operation, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Fast Food Establishment: A food and beverage serving facility which generally serves ready-to-eat foods and beverages in disposable containers over a general service counter that customer carry to the restaurant's seating facilities or off premises. In the B-1 and B-2 Districts, no special permit may be issued for a Fast Food Establishment with a seating capacity which exceeds 36 seats; safety hazards to pedestrians may not be created; and the design of the building must be architecturally compatible with the nearby building group and neighborhood.

Fixture: The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Floor Area Ratio (FAR): The ratio of the gross floor area of the building or group of buildings on a lot, including accessory buildings, to the lot area. Any land within the lot area which is located in another zoning district in which the principal use of the lot is not permitted shall be subtracted from the lot area for the purposes of calculating the Floor Area Ratio. Any land within the lot area located beneath a river, or beneath a brook, stream or creek wider than 10 feet, the boundary of which is the upper boundary of the bank, shall be subtracted from the lot area for the purposes of calculating the Floor Area Ratio.

Gasoline Service Station: Gasoline service station for the retail sale of gasoline, oil, auto accessories, and accessory convenience items, and for minor automotive repairs and servicing. Accessory servicing and repair shall be permitted if sufficiently sound-insulated and confined to premises to protect the neighborhood. The use shall be subject to special regulations for Service Stations and Outdoor Auto Sales, Section IV.D., herein.

Geriatric Hospital Facility: An Accredited geriatric hospital facility, including acute care facilities, extended care facilities, and continuing care facilities.

Glare: Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort or visual impairment.

Gross Floor Area: The sum of the area of all stories of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, including any floor area below grade when used for residential, office, business, storage, industrial, or other purposes, but excluding any area used exclusively for heating, air conditioning or other mechanical equipment, and excluding floor area intended or designed for accessory off-street parking.

Gross Leasable Area: The total floor area designed for tenant occupancy and exclusive use, including any basement, mezzanines, or upper floors, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Ground Coverage: Land occupied by structures, storage spaces, patios, parking areas, roadways and driveways, and other paved or enclosed areas.

Group Residence: A residential, non-profit school which provides services substantially paid for by the Commonwealth of Massachusetts to six or fewer individuals who may be handicapped, disabled, or undergoing rehabilitation.

Home occupation: An activity customarily conducted by the residents of a dwelling unit, inside the principal dwelling unit or building accessory thereto, requiring only home equipment, including but not limited to type writers and computers. The term “home occupation” shall include but is not limited to the studio of an artist,

musician, or photographer; the office of a sales or manufacturer's representative; secretarial or computer-related activities; tailoring; millinery; handicrafts; and small group instruction or tutoring. Such use shall be allowed provided no retail or wholesale merchandise transactions are conducted on the premises, with the exception of handicrafts, art work or clothing produced entirely on the premises. The term "home occupation" shall not be interpreted to include the following: clothing rental, barber shop, hairdresser, restaurant, television repair, real estate broker, orchestra or instrumental group, antique shop, animal hospital, and other similar uses. The term "merchandise transaction" shall not include transactions made solely by mail or telephone, but shall include any pick-up or delivery of goods bought or sold as part of the home occupation.

Home Office: An office within the dwelling unit, or accessory building thereto, of a resident physician, dentist, lawyer, architect, registered engineer, accountant, psychologist, or other member of a recognized profession. A "recognized profession" is one in which specialized services are provided to clients and which is recognized by a board or agency which grants a license, certification, or registration.

Hospice Facilities: Facilities designed to provide for the physical and emotional needs of the terminally ill.

Human Habitation: The use of a building for living purposes including working, sleeping, eating, cooking or recreation, or a combination thereof, but excluding use for storage only.

Indoor Amusement Facility: Indoor entertainment, amusement or recreation facility, unless exempted by law, such as movie theater, bowling alley, billiard room, or tennis club. Noisy activities shall be at least 100 feet away from any lot line and effectively sound-insulated or screened to protect the neighborhood.

Indoor Non-profit Recreational Facilities: Indoor non-profit recreational facilities such as swimming pool, tennis court, skating rink, or children's camp or center.

Independent Living Housing: Housing units and associated facilities designed for the elderly who are self sufficient and require no on-site personal or health care services. An Independent Living Housing unit consists of a room or group of rooms designed or intended to provide a habitable unit for one or more persons with provisions for cooking, living, sanitation and sleeping for the exclusive use of the household unit. Associated facilities may include substantial common and socializing areas and other amenities.

Lamp - The component of a luminaire that produces the actual light.

Landscaped Open Space Surface Ratio (also, **Landscaped Surface Ratio** or **LSR**): The ratio between (1) the area of a parcel devoted to pervious landscaping or natural vegetated areas and (2) the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in M.G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred feet of an upland area adjoining a developed area of the project.

Landscaper: Abutting properties shall be sufficiently screened for visual and noise impacts to protect the neighborhood.

Light Trespass - The shining of direct light produced by a luminaire beyond boundaries of the lot on which it is located.

Light Manufacturing: For purposes of the Table of Uses, Light Manufacturing is defined as manufacturing of the following: small tools, clothing, electrical appliances, food products preparation except as prohibited in Section II. C, leather goods, machinery parts and accessories, such as bolts, nuts, screws, washers, gears, etc., provided power forges are not employed on the premises. In no case, however, shall basic materials be processed on the premises, a power generating plant be maintained on the premises, nor more than one hundred horsepower to be used as the total capacity in electric motive power for each two thousand square feet of floor area employed for such purposes.

Limited Accessory Structure: A structure that does not require a building permit, including but not limited to, a shed, dog house, pool house, oil or natural gas tank covers, wood storage bins, or any other similar accessory structure.

Lot: A parcel of land, with definite boundaries ascertainable by recorded deed or recorded plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose, in one ownership and not divided by a street or public way.

Lot Area: The horizontal area of the lot including land over which easements have been granted, but exclusive of any area within the limits of a street or recorded public or private way, even if fee to such street is in the owner of the lot.

Lot Coverage: The area of a lot lying within the outside lines of exterior walls of all buildings on the lot, including the area of any appurtenance; or, if indicated by the context, the ratio of said area to the total area of the lot, expressed as a percentage.

Lot Line: A line dividing a lot from a street or from a contiguous lot.

Lot Line, Front: The property line adjacent to (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a fully constructed way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town of Framingham, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Frontage shall provide both rights of access and potential vehicular access across that lot line to a potential building site. Frontage shall be measured in a single contiguous, uninterrupted line along a street or streets.

Lot Line, Side: Any lot line that is not a front lot line.

Lumen - A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this By-Law, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

Luminaire - The complete lighting unit, including the lamp, the fixture, and other parts.

Medical Office: Office or clinic for medical or dental examination or treatment of persons as out-patients, including laboratories incidental thereto.

Mixed Use: A building containing residential use on any floor above the ground floor of a building combined with an allowed non-residential use or uses on the ground floor and other floors of a building.

Mixed Use Complex: A parcel or contiguous parcels (whether or not in common ownership) of at least five acres with adaptive reuse of historic manufacturing structures for multifamily residential and allowed non-residential uses within the existing historic structures. Such Mixed Use Complex shall have shared parking and integrated facilities and infrastructure. Residential and non-residential uses may be in the same or separate buildings, provided however that neither the total residential uses nor the total non-residential uses shall exceed 80 percent of the gross floor area of the buildings in the Mixed-Use Complex, excluding parking facilities.

Multi-family Dwelling: A dwelling containing more than two dwelling units.

Municipal Waste Disposal: Municipal plant for the disposal of sewerage, or for the incineration of refuse and garbage and municipal sanitary land fill operation.

Municipal Services: Public services and infrastructure furnished by the Town, including but not limited to, police,
fire, schools, public works, inspectional services, finance, water systems, sanitary sewerage systems, communication services, and fire alarm systems.

Nonconforming - A lawful pre-existing building, structure, vacant lot, or use of buildings or land that does not conform to the zoning regulations for the district in which it is located, but did conform at the time it was built or established. The grant or existence of a variance or special permit for the maintenance of any non-compliance with this By-Law does not make such non-compliance a non-conformity protected under Section I.D.

Nursing Care Facilities: Intermediate and skilled care nursing facilities designed to provide an intensive level of nursing and medical care for patients.

Open Space, Landscaped: The part or parts of a lot designed to improve the visual environment and to provide areas for passive outdoor recreation, including the preservation of existing natural site features and/or the planting or placement of such elements as grass, flowers, shrubs, trees, or permeable ground cover. Such space shall not include lot area used for parking or access drives or any impermeable paved areas.

Open Space, Usable: The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for such recreational uses as swimming pools and tennis courts, vegetable gardens, animal enclosures, or patios. Such space may include landscaped open space and impermeable paved areas, but shall exclude areas used for parking or access drives or accessory structures.

Open Space Buildable Parcel: The portion of the Open Space Parcel that may be used for cluster development. The Preserved Area shall not be included in this area.

Open Space Parcel: Land consisting of 15 acres or more located within the Single Family Residential Zoning District (R-3 and R-4) that has not been protected from development, nor has a conservation restriction or easement placed upon it and consists of one or more contiguous parcels in one ownership throughout or any combination of parcels of land consolidated under a Purchase and Sale Agreement where all such owners jointly apply for Open Space Preservation Development Special Permit and that do not have a Conservation Restriction on the Open Space Preserved Area.

Open Space Preserved Area: The portion of the Open Space Parcel that shall have a Conservation Restriction (CR) placed on the area in perpetuity.

Outdoor Entertainment Facility: Outdoor entertainment facilities such as miniature golf, driving range or drive-in theater. The use shall not include an Amusement Park. Noisy activities shall be at least 100 feet away from any residential lot line and effectively screened from abutters to protect the neighborhood.

Outdoor Café: Outdoor or sidewalk cafes, ancillary to a restaurant, lunchroom or other eating establishment, other than a fast food establishment.

Outdoor Recreational Facility: Parks, picnic areas, play fields and playgrounds; outdoor swimming pools and tennis courts; golf courses and country clubs on parcels of at least 50 acres; boat launching ramps; riding trails; and paths or trails for cycling, hiking, jogging, skiing, etc. Specifically excluded are firing ranges and miniature golf courses.

Personal services: Including but not limited to a barber or beautician; pickup or self-service laundry or dry cleaning; garment or shoe makers and repairers; florist; printing, publishing or photocopying; photographer's studio; baker, caterer or confectioner; clothes cleaner and presser, decorator, dressmaker, dyer, furrier, hairdresser, hand laundry, manicurist, milliner, newsdealer, optician, photographer, shoe-shiner, tailor, telephone exchange, telegraph office, upholsterer.

Principal Use: The primary or main use of land, building or structure, as distinguished from an accessory use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

Rental of Rooms: The taking of boarders or the letting or renting of rooms by a resident family in a dwelling; but no dwelling so used shall be enlarged, but may be remodeled for the same or like purpose.

Research, Development and Laboratories: Establishment or laboratory for scientific research and development (R&D), including biotechnology. Uses accessory to activities which are necessary in connection with scientific R&D or related production shall be allowed.

Restaurant: Restaurant, lunchroom, or other eating establishment primarily for on-premises consumption; other than a fast food establishment.

Retail Dealers: Retail dealers in grain, fuel, lumber, and structural materials, milk depots and other commercial, non-manufacturing uses not otherwise specified in the zoning by-law.

Retail Services: Including but not limited to a drug or package store; grocery, variety, clothing or shoe store; hardware or household appliance sales and services; music store; computer store; book, card, or stationery store; newsdealer.

Retail Stores/Custom Work Shop: Retail stores and shops for custom work or the making only of articles to be sold at retail on the premises.

Self-service Carwash: Any facility with two or more bays, its structures, accessory uses, paved areas or grounds used wholly or partly to wash, clean and dry the exterior of passenger automobiles, vans, pick-up and panel trucks using hand held equipment and which is open to the public.

Setback: The distance between a front or side lot line and the line of a building or projection thereof, measured on a line perpendicular to the lot line.

SPGA: Special Permit Granting Authority

Stone or monument works: Stone or monument works, employing not more than five workers, and providing any stone cutting be done behind a screen between the site of such cutting and any street line or property line.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. Any floor area below finished grade shall be deemed to be a story when its ceiling is four feet six inches or more above grade. Any attic shall be deemed to be a story if more than one-half the floor area has a clear height of seven feet or more.

Structure: Any combination of materials assembled at a fixed location providing support or shelter, such as a building, framework, tent, shed, or mast for radio antennas, but excluding sidewalks and paved areas on streets, driveways, parking areas, and patios.

Substantial Alteration: An alteration or improvement of a structure or group of structures under one ownership on the same lot or contiguous lots which results in an increase in gross floor area in excess of either 10 per cent of existing gross floor area or 5,000 square feet, whichever is the lesser amount, or which requires an addition of 10 or more parking spaces to the amount required by this By-Law prior to the alteration. The calculation of a substantial alteration shall be determined by the Building Commissioner based on the aggregate of all repairs, improvements, extensions or enlargements undertaken within a consecutive three year term.

Substantial Improvement: An alteration or improvement of a building, the cost of which, including all materials and labor, based on documented estimates or construction costs submitted by the applicant, equals or exceeds 40 per cent of the full value assessment of the building. The calculation of a substantial improvement shall be determined by the Building Commissioner based on the aggregate of all repairs, improvements, extensions or enlargements undertaken within a consecutive three year term.

Truck Terminal: Truck or motor freight terminal. Servicing or repair of such vehicles prohibited.

Veterinary Services: Veterinary services or animal groomer, with all activity conducted within an enclosed structure. Noisy activity shall be at least 100 feet from any residential lot line and effectively sound-insulated or screened to protect the neighborhood.

Workshop: Shop of a plumber, carpenter, electrician, upholsterer or similar workshop or repair establishment conducted entirely within an enclosed structure. All work and storage shall be sufficiently sound-insulated and confined to the premises to protect the neighborhood.

Wholesale Business: Wholesale business and storage, such as building trade suppliers. Storage of flammable liquids and gas prohibited.

2. Terms Not Defined

Terms not defined in this Section or elsewhere in this By-Law but defined in the State Building Code or in the Massachusetts General Laws shall have the meanings given therein.

II. USE REGULATIONS

A. Classes of Districts

For the purpose of this By-Law, the Town of Framingham is hereby divided into classes of Districts as follows:

1. Residence Districts:

a. Single Residence: R consisting of sub-categories R-1, R-2, R-3, R-4

b. General Residence: G

2. Business Districts

a. Neighborhood Business: B-1

Intent:

(1) To preserve areas for small businesses in close proximity to residential areas.

(2) To preserve uses and encourage development which support pedestrian patronage and alternative transportation in addition to customers arriving by automobile.

(3) To reinforce the historic development pattern of the Town's traditional commercial centers, with small lots, small setbacks, parking to the side or rear, and mixed use structures containing a variety of businesses which primarily serve the needs of the surrounding neighborhood.

(4) To protect such areas from commercial retail development that draw patrons primarily from outside the neighborhood.

(5) To protect adjacent residential neighborhoods from impacts caused by large scale development.

b. Community Business: B-2

Intent:

(1) To preserve business uses which serve nearby residential neighborhoods.

(2) To foster compact commercial centers served primarily by automobiles, yet accessible and inviting to pedestrians.

(3) To contain general business areas consisting of small shopping centers and commercial strips.

(4) To encourage improved visual quality of commercial development.

c. General Business consisting of subdistricts B-3 and B-4

Intent:

(1) To encourage business areas with more expansive uses along regional roadways.

(2) To preserve such uses that serve both the Town and surrounding region.

(3) To reduce traffic and safety hazards by promoting shared-access driveways, circulation and parking facilities.

(4) To foster consolidation of small parcels, prevent scattered small-lot development from impairing the location of expansive business uses, and to encourage concentrated rather than strip development.

(5) To encourage improved visual quality of commercial development.

d. Central Business: CB

Intent:

(1) To promote general and specialty retail, office, and other commercial uses in a compact downtown area, complemented by a variety of residential environments.

(2) To preserve the area as the Town's financial, civic, cultural and governmental center.

(3) To promote a livable urban Downtown environment with a multitude of activities and pedestrian presence.

(4) To prevent the location of auto-oriented uses which detract from a high level of pedestrian activity.

(5) To promote pedestrian flow by preserving unbroken block facades.

(6) To encourage improved visual quality of commercial development, which respects the existing urban building pattern.

e. Business: B

Intent: To provide the business community of Framingham with an appropriate location for commerce.

3. Office and Professional Districts: P

4. Planned Reuse Districts: PRD

5. Manufacturing Districts

a. Light Manufacturing: M-1

b. General Manufacturing: M

Purpose and Intent

The purpose and intent of the General Manufacturing Districts is to promote technological and light industrial development so as to enhance employment and economic vitality by allowing a certain mix of land uses at a higher density, without a corresponding increase in traffic, than is otherwise permitted in other zoning districts and not to permit uses and developments which would be offensive because of injurious or obnoxious noise, vibration, smoke, gas, fumes, odors, dust or other objectionable features, or hazardous to the community on account of fire or explosion or any other cause that would be hazardous to the public health and welfare.

6. Open Space and Recreation Districts: OSR

Purpose

The purpose of this section is to encourage, preserve and protect land for use for recreational purposes and other uses as enumerated herein; and to conserve natural conditions, open space, wildlife and vegetation for the general welfare of the public.

7. **Geriatric/Elderly Housing Districts: G-E**

8. **Technology Park Districts: TP**

B. Table of Uses

No building, structure, or land shall be used and no building or part thereof or other structure shall be erected, raised, reconstructed, extended, enlarged, or altered, for any purpose or in any manner other than as permitted as set forth in the Table of Uses or unless otherwise authorized by this Zoning By-law, except that nothing in this By-Law shall affect the existing use of any building or lot. Any use not specifically authorized in this Zoning By-law shall be deemed prohibited.

TABLE LEGEND (subject to the footnotes)

Y Uses which are permitted as of right
N Uses which are prohibited
SPZ Uses that require a special permit from Zoning Board of Appeals
SPP Uses that require a special permit from the Planning Board
SP Uses that require a special permit from either Zoning Board of Appeals or Planning Board depending upon the size of the establishment (see footnotes).

For uses with a dash (-), see footnote 11.
For those uses with an * under Parking Code, see the Mixed Use Regulations, Section V.G.

Uses which are defined in Section 1.E are in **bold.**

USE CATEGORY	**R**	**G**	**B-1**[1]	**B-2**[2]	**B-3 B-4**[3]	**CB**[4]	**B**[5]	**P**[6]	**PRD**[7]	**M-1**[8]	**M**[9]	**OSR**[10]	**TP**[11]	**Parking code**[12]
1. RESIDENTIAL														
A. Single-family detached dwelling	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	1
B. Two-family detached dwelling[13]	N	SPZ	SPZ	SPZ	N	N	SPZ	N	N	N	N	N	N	2
C. **Boarding house (conversion)**	N	N	N	SPP	SPP	SPP	N	N	N	N	N	N	N	3
D. Boarding and lodging houses	N	N	N	N	N	N	SP	N	N	N	N	N	N	3
E. **Mixed use**	N	N	N	N	N	SPP	N	N	N	N	N	N	N	*
F. **Mixed use complex**	N	N	N	N	N	SPP	N	N	N	N	N	N	N	*

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
2. <u>RESIDENTIAL ACCESSORY</u>														
A. **Rental of rooms**	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	28
B. **Home occupation/office**	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	30
C. **Family day care home**	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	7
D. **Accessory residential garage**	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	none
E. Private stables	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	none
F. Accessory swimming pool	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	none
G. Amateur radio tower	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	none
3. <u>INSTITUTIONAL AND RECREATIONAL</u>														
A. Public buildings and grounds	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	23
B. Water towers and reservoirs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	none
C. Cemeteries	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	none
D. **Educational/charitable/religious**	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	7 or 13
E. Lodge, club or private non-profit social or fraternal organization	N	N	SP	Y	Y	Y	Y	N	N	Y	Y	N	N	9
F. Library, museum, or public or semi-public institution of a philanthropic or charitable character.	N	N	SP	SP	SP	SP	N	N	N	SP	SP	N	N	13

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
G. Public hospital and accessory dormitory	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	12
H. Passenger stations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	26
I. Licensed establishment for care of sick, aged, crippled, or convalescent persons	SPZ	SPZ	SP	SP	SP	SP	SP	SPZ	Y	SP	SP	N	N	11
J. Private or public golf club on parcel of at least 50 acres	SPZ	SPZ	SP	SP	SP	SP	SP	SPZ	Y	SP	SP	N	N	5
K. Outdoor recreational facilities[14]	SPZ	SPZ	SP	SP	SP	SP	SP	SPZ	SPZ	SP	SP	Y[15]	N	6
L. Trade, professional, or other school unless exempt	N	N	SP	Y	Y	Y	N	N	N	Y	Y	N	N	7
M. Day care for elderly	N	N	SP	SP	SP	SP	N	N	N	SP	SP	N	N	7
N. **Indoor amusement facility**	N	N	N	SP	SP	SP	SP	N	N	SP	SP	N	N	6
O. Wildlife reserve, nature area, or similar conservation use	N	N	N	N	N	N	N	N	N	N	N	Y	N	none
P. **Indoor non-profit recreational facilities**	N	N	N	N	N	N	N	N	N	N	N	SPZ	N	6
Q. **Cultural and educational centers**	N	N	N	N	N	N	N	N	N	N	N	SPZ	N	9
R. Center for performing arts	N	N	N	N	N	N	N	N	N	N	N	N	SPP	9
S. Public driving ranges on parcel of at least 40 acres	N	N	N	N	N	N	N	N	N	N	N	SPZ	N	6

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
T. Day care	N	N	N	N	N	N	N	N	N	N	Y	N	Y	7
U. Educational training facilities and conference centers accessory to permitted use	N	N	N	N	N	N	N	N	N	N	Y	N	Y	23
V. **Municipal waste disposal facility**	N	N	N	N	N	N	N	N	N	Y	Y	N	N	none
4. AGRICULTURAL														
A. Farms, greenhouses, nurseries	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	17
B. Stock farms, truck gardens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	none
C. Agricultural production, livestock, or animal husbandry; forestry, horticulture, floriculture, and related activities.	N	N	N	N	N	N	N	N	N	N	N	Y	N	none
D. Greenhouse or other building for the raising and distribution of agricultural products or plants	N	N	N	N	N	N	N	N	N	N	N	SPZ	N	17
E. Breeding and raising fur-bearing animals and dogs	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	19
F. Kennels for boarding of dogs	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	19
5. COMMERCIAL														
A. Business or professional office	N	N	Y	Y	Y	Y	Y	SP	Y	Y	Y	N	Y	15

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
B **Medical office**	N	N	Y	Y	Y	Y	N	N	Y	Y	Y	N	-	14
C. Financial institution such as bank or credit union	N	N	Y	Y	Y	Y	Y	SP	Y	Y	Y	N	-	16
D. **Retail services**	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	N	-	19
E. **Retail stores/custom work shops**	N	N	N	N	N	N	Y	N	Y	N	N	N	-	19
F. **Personal services**	N	N	Y	Y	Y	Y	Y	N	N	Y	Y	N	-	19
G. Artisans, jewelry makers, handicrafts, artist studios	N	N	Y	Y	Y	Y	N	N	N	Y	Y	N	-	19
H. **Veterinary services**	N	N	SP	SP	SP	SP	N	N	N	SP	SP	N	-	14
I. Mortuary, undertaker, or funeral establishment.	N	N	SP	SP	SP	SP	Y	N	N	SP	SP	N	-	17
J. **Workshop**	N	N	SP	Y	Y	Y	Y	N	N	Y	Y	N	-	21
K. **Restaurant**	N	N	SP	SP	SP	SP	SP	N	N	SP	SP	N	-	9
L. **Fast Food Establishment**	N	N	SP	SP	SPP	SP	N	N	N	SPP	SPP	N	-	10
M. **Outdoor café**	N	N	N	N	N	SP	N	N	N	N	N	N	-	9
N. **Drive thru**	N	N	N	SPP	SPP	N	SPP	N	N	SPP	SPP	N	-	none
O. Financial institution drive thru one lane only	N	N	SPP	SPP	SPP	SPP	SPP	N	N	SPP	SPP	N	-	none
P. **Accessory drive thru**	N	N	N	SPP[16]	SPP	N	SPP	N	N	SPP	SPP	N	-	none

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
Q. Personal health and exercise facility, or health club.	N	N	N	Y	Y	Y	N	N	N	Y	Y	N	-	6
R. **Gasoline service station**	N	N	N	SP	SP	N	SP	N	N	SP	SP	N	N	22
S. **Outdoor entertainment facility**	N	N	N	N	SPP	N	N	N	N	SPP	SPP	N	-	6
T. Parking facility	N	N	N	SP	SP	SP	N	N	N	SP	SP	N	-	none
U. Radio or Television Studio	N	N	N	SP	SP	SP	N	N	N	SP	SP	N	-	24
V. **Landscaper**	N	N	N	SPP	SPP	N	N	N	N	SPP	SPP	N	-	24
W. **Carwash**	N	N	N	N	SPP	N	SPP	N	N	SPP	SPP	N	N	27
X. **Automobile repair**	N	N	N	N	SP	N	SP	N	N	SP	SP	N	N	21
Y. **Automobile dealer**	N	N	N	N	SP	N	SP	N	N	SP	SP	N	N	21
Z. Used car dealer	N	N	N	N	SP	N	SP	N	N	N	N	N	N	21
AA. **Automobile storage**	N	N	N	N	SP	N	N	N	N	SP	SP	N	N	24
BB. Motel	N	N	N	N	SPP	N	N	N	N	SPP	SPP	N	N	4
CC. Hotel	N	N	N	N	SPP	SP	SP	N	N	SPP	SPP	N	N	4
6. <u>MANUFACTURING AND INDUSTRIAL</u>														
A. **Research, development & laboratories**	N	N	N	SP	SP	SP	N	N	N	SP	Y	N	Y	25

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
B. Laboratories, research, experimental and testing	N	N	N	N	N	N	N	N	N	Y	Y	N	N	25
C. **Wholesale business**	N	N	N	N	SP	N	N	N	N	SP	SP	N	N	24
D. Wholesale lumberyard	N	N	N	N	SP	N	N	N	N	SP	Y	N	N	24
E. Limited manufacturing	N	N	N	N	N	SPP[17]	SP[18]	N	N	N	N	N	N	25
F. **Light manufacturing**	N	N	N	N	N	N	N	N	N	Y	Y	N	N	25
G. Light and high tech manufacturing[19]	N	N	N	N	N	N	N	N	N	N	Y	N	N	25
H. Processing, assembly and manufacturing[20]	N	N	N	N	N	N	N	N	N	N	Y	N	Y	25
I. **Retail dealers**	N	N	N	N	N	N	SP	N	N	N	N	N	N	24
J. Retail and wholesale ice dealers	N	N	N	N	N	N	SP	N	N	N	N	N	N	24
K. Vehicle storage yard	N	N	N	N	N	N	SP	N	N	N	N	N	N	24
L. **Truck Terminal**	N	N	N	N	SP	N	SP	N	N	SP	SP	N	N	24
M. Contractor yard or shop	N	N	N	N	N	N	N	N	N	N	SPP	N	N	24
N. Bottling works	N	N	N	N	N	N	N	N	N	Y	Y	N	N	25
O **Stone or monument works**	N	N	N	N	N	N	N	N	N	Y	Y	N	N	25
P. Printing	N	N	N	N	N	N	N	N	N	N	Y	N	Y	25
Q. Delivery services	N	N	N	N	N	N	N	N	N	N	Y	N	Y	24

USE CATEGORY	R	G	B-1	B-2	B-3 B-4	CB	B	P	PRD	M-1	M	OSR	TP	Parking code
R. Indoor recycling facility	N	N	N	N	N	N	N	N	N	N	SPP	N	N	25
S. Commercial or private landfill, refuse incinerator, solid waste disposal or processing facility	N	N	N	N	N	N	N	N	N	N	SPP	N	N	25
T. Storage and distribution facility	N	N	N	N	N	N	N	N	N	N	SPP	N	Y	24
U. Yard for storage and sale of used building and junk materials	N	N	N	N	N	N	N	N	N	N	SPP	N	N	24
7. OTHER														
A. Billboards	N	N	N	N	N	N	SP	N	N	N	N	N	N	none

[1] No individual establishment shall exceed 3,000 square feet in gross floor area per establishment and no building or structure shall exceed 6,000 square feet in gross floor area in the B-1 District, except as regulated herein. The gross floor area of individual establishments for purposes of this District shall exclude all or part of the area used for ancillary storage space which is secondary and incidental to the allowed principal use, such that the excluded area may not exceed 50 percent of the area of the principal use. The Planning Board may, by special permit, grant approval for individual establishments which exceed 3,000 square feet in gross floor area per establishment, subject to the following requirements: 1) The individual establishment shall be located within a building or structure in existence prior to the establishment of the property within a B-1 zone, where such building exceeded 6,000 square feet in gross floor area at such time; 2) No special permit for size may be issued for individual establishments to exceed 50 percent of the existing building gross floor area, and in no event may a special permit be issued for individual establishments in excess of 10,000 square feet per establishment.

[2] No individual establishment shall exceed 8,000 square feet in gross floor area per establishment and no building or structure shall exceed 8,000 square feet in gross floor area in the B-2 District, except as regulated herein. Uses designated "SP" require a special permit from the Zoning Board of Appeals for uses under 8,000 square feet of gross floor area. The Planning Board may, by special permit, grant approval for individual establishments with 8,000 or greater than 8,000 square feet of gross floor area per establishment up to a maximum size of 50,000 square feet in gross floor area per establishment and may, by special permit, grant approval for a building or structure up to a maximum of 60,000 square feet in gross floor area.

[3] Uses with 8,000 or greater than 8,000 square feet of gross floor area require special permit from planning board in B-3 and B-4 districts. Automobile repair, automobile dealer, automobile storage, truck terminal, and wholesale business with less than 8,000 square feet of gross floor area require special permit from Zoning Board of Appeals.

[4] Uses designated "SP" require a special permit from the Zoning Board of Appeals for uses under 8,000 square feet of gross floor area. All uses require a special permit from the Planning Board for uses with 8,000 or greater than 8,000 square feet of gross floor area, without limitation as to maximum size of establishment or building.

[5] Uses designated "SP" require a special permit from the Zoning Board of Appeals for uses under 8,000 square feet of gross floor area. A special permit from the Planning Board is required for all uses with 8,000 or greater than 8,000 square feet of gross floor area. A used car dealer may not be located within 1,000 feet of another used car dealer unless it is a legal pre-existing use of the land. Such required separation distance shall be measured from all property lines of the proposed use. A special permit for used car dealers may not be granted in the Central Business District unless it is a renewal of an existing valid special permit.

[6] Uses designated "SP" require a special permit from the Zoning Board of Appeals for uses under 8,000 square feet of gross floor area or a special permit from the Planning Board for uses with 8,000 or greater than 8,000 square feet of gross floor area.
[7] See Section II.E for further provisions regarding the uses allowed in the Planned Reuse District.

[8] All uses in this district with 8,000 or greater than 8,000 square feet of gross floor area require special permit from Planning Board. Office and commercial uses permitted in the general business district which require the provision of 50 or more parking spaces, calculated in accordance with Section IV of this Zoning By-Law, require a special permit from the Planning Board.

[9] All uses in the Manufacturing District with 8,000 or greater than 8,000 square feet of gross floor area require a special permit from the Planning Board.

[10] In no case shall the Zoning Board of Appeals issue a special permit for use on any lot within this district a) such that the gross floor area of all buildings and structures in the district exceed eighteen thousand (18,000) square feet, or b) such that the floor area ratio of all buildings and structures in the district exceeds one percent (.01), whichever is the lesser. Ancillary administrative, maintenance and sanitary facilities necessary to serve the recreational uses in the District may be allowed by special permit from Zoning Board of Appeals.

[11] See Section II.F for further provisions regarding the uses allowed in the Technology Park District. Retail outlets, accessory to a use permitted by this section, having a gross floor area no greater than two thousand five hundred (2,500) square feet; and non-automotive commercial uses and services intended for the primary use and convenience of the employees of the Technology Park District such as restaurants, branch banks, financial services, personal services and dry cleaners, provided the same do not occupy more than two thousand five hundred (2,500) square feet each are allowed by special permit from the Planning Board.

[12] Parking codes refer to the numbered uses set forth in the Table of Off-Street Parking Regulations, Section IV.B.1.a; see that Table for the applicable parking requirements.

[13] The lot and structure shall conform to the existing area, frontage, width, setback, and lot coverage requirements applicable to the zoning district in which they are located. The Zoning Board of Appeals shall not grant a special permit for a nonconforming lot or structure. Off-street parking shall be provided for both

dwelling units in accordance with the requirements set forth in Section IV.B., including without limitation the requirements for number of parking spaces and setbacks from lot lines. A minimum of 200 square feet of parking area shall be provided for each required parking space.

[14] Outdoor recreational facilities such as swimming pools, tennis courts (but not including driving ranges or miniature golf) owned or operated by a non-government agency, subject to the following provisions:
(1) The use shall not be conducted as a private gainful business.
(2) No accessory structure shall be located nearer any lot line than seventy feet.

[15] As defined in Section I.E; not subject to provisions of note 14 above.

[16] Drive-thru facilities associated with a restaurant or fast food establishment are prohibited.

[17] Limited manufacturing, limited to assembly of materials only, and which does not require any processing of new materials, provided that the use is found to be compatible with the intent of this Section, and with the uses allowed herein; provided that the use is operated in compliance with all applicable town, state, and federal health and safety laws and regulations; provided that the use will not detract from an active streetscape at the pedestrian level; and provided that the use will be limited to the upper floors or basement level of a building on primary downtown streets (Concord St., Union Ave., Waverly St., Irving St. and Hollis St.), except where the use is ancillary to a retail or personal service use in a storefront location.

[18] Limited manufacturing and similar uses which may, in specific instances be found to be compatible with uses allowed by right.

[19] Provided the use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.

[20] Provided the use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.

C. PROHIBITED USES

All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare are expressly prohibited in all zoning districts. In addition, the following uses are expressly prohibited in all zoning districts.

a. Abattoir and commercial slaughtering;

b. Manufacturing and storage of corrosive, poisonous or malodorous acids and chemicals;

c. Cement, lime, gypsum and plaster-of-Paris manufacture;

d. Fertilizer manufacture or fat rendering in manufacture of tallow, grease, and oils;

e. Glue, size and gelatin manufacture;

f. Petroleum and kerosene refining or distillation and derivation of by-products;

g. Manufacture, use, storage, transport or treatment, disposal and/or processing of explosive, toxic or hazardous materials;

h. Smelting and reduction of metals or ores;

i. Asphalt plants;

j. Concrete batch plants;

k. Reclamation and reprocessing of asphalt and/or concrete;

l. Lumber mills; and

m. Any other use that produces disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.

No use variance shall be granted for any prohibited use set forth in this subsection, within any zoning district in the Town of Framingham.

D. HOME OCCUPATIONS

Home occupations and home offices, as accessory uses within single family dwellings, or buildings accessory thereto, are subject to the following conditions:

(1) The home occupation or home office shall be clearly incidental and secondary to the use of the dwelling as a residence, shall be located within the dwelling unit or a single accessory building, and shall not change the residential character thereof.

(2) The area utilized for the purpose of the home occupation or home office shall not exceed the smaller of (a) twenty-five per cent of the total floor area of the dwelling unit or (b) four hundred square feet.

(3) In a home occupation, not more than one non-resident full-time employee, or equivalent thereof, may be employed in a secretarial or like position. In a home office, not more than two non-resident full- time employees, or equivalent

thereof, may be employed. Non-resident employees in a home office need not be secretarial or the like, but shall be employed in a capacity supportive of the practice of the resident professional.

(4) Not more than three customers, clients, pupils, or patients for business or instruction shall be present at any one time. Customers, clients, etc. shall be present only between the hours of 8:00 a.m. and 9:00 p.m., Monday through Saturday.

(5) There shall be no exterior display or storage of goods or materials, and no exterior indication of the home office or occupation other than one non-illuminated identification sign not to exceed two square feet in area.

(6) There shall be no noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in a residential area.

E. PLANNED REUSE

1. Purpose and Intent

It is the intent of this district to permit and encourage the appropriate reuse of land and buildings that are no longer needed or suitable for their original use, and to permit reuses which are compatible with the character of the neighborhood and which take into consideration the interests of abutters, neighbors and the public, especially where the site abuts a residential area or the building(s) merit preservation. The provisions of this section shall apply only to land and buildings in municipal ownership on the date of Town Meeting action placing land in this district.

2. Use Regulations

No building or structure shall be used or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

a. All uses permissible by right or by special permit in a Single Residence District subject to the same lot size, frontage, and setback regulations as residences in the R-3 Single Residence District.

b. Multi-family or single-family residences at a density greater than that permitted by Section II.E.2.a., subject to the Special Reuse Permit provisions of Section II.E.3.

c. Medical, professional, business, banking, or research and development offices, subject to the Special Reuse Permit provisions of Section II.E.3.

d. Retail service establishments or retail stores, including shops for making articles to be sold at retail on the premises, subject to the Special Reuse Permit provisions of Section II.E.3.

3. Special Reuse Permit Provisions

a. Requirement

In all instances where a Special Reuse Permit is required by this Section, no structure shall be erected, enlarged or used and no land shall be used except in conformity with said Permit. The Zoning Board of Appeals (ZBA) shall be the permit granting authority for such Permits.

b. Application Procedure

Prior to the filing of an application subject to this Section, the applicant shall submit plans to the Building Commissioner who shall advise the applicant as to the pertinent sections of the Zoning By-Law. The applicant shall then submit five copies of the application to the ZBA which shall forthwith transmit one copy each to the Town Clerk, the Engineering Department, the Planning Department, and the Planning Board. Such agencies shall, within 30 days of receiving said copy, submit a report containing recommendations and the reasons therefor to the ZBA, and may recommend conditions deemed appropriate for the proposed use. The ZBA shall not render a decision on any such application until said recommendations have been received and considered, or until the 30-day period has expired, whichever is earlier. Failure of such agencies to submit their respective recommendations shall be deemed concurrence

thereto. The conduct and notification of hearings and decisions on applications under this Section shall be in accordance with the procedures for all special permits in M.G.L. Ch. 40A, §9.

c. Contents of Application

To assist the ZBA in rendering its decision on the application, said application shall indicate at least the following:

(1) Locus plan indicating, for the subject site and for all properties within 1000 feet: lot lines, ownership, location of structures and location of significant landscape features.

(2) Existing site plan with contours at a maximum of two feet showing location of structures, parking areas, driveways and walkways, and other significant site features.

(3) Proposed site plan including a plan of the layout of buildings and structures and the proposed use of interior space; a parking plan; a landscaping plan; a drainage plan with contours at a maximum of two feet; a design plan showing the exterior treatment of buildings; and, for areas or buildings having historical or architectural significance, a design plan showing the interior treatment of buildings.

(4) If new construction or additions are proposed, a perspective drawing showing the new construction or additions in relationship to existing buildings on the site and on adjacent land.

(5) A traffic report.

(6) Information pertaining to the financial feasibility and the likelihood of completion of the proposed project.

(7) Other information as may reasonably be required by the ZBA to ensure compliance with the provisions of this Section.

d. Conditions for Approval

The ZBA shall approve only those applications which meet the following conditions:

(1) The proposal protects adjoining premises from characteristics of the proposed use which are incompatible, detrimental, offensive, or unsightly.

(2) The proposal ensures the harmonious relationship of proposed structures and additions to the terrain and to the use, scale, and architecture of existing buildings on the site or in the vicinity that have functional or visual relationship to the proposed structures and additions.

(3) The proposal preserves and enhances open space, trees, plantings and other natural features of the site.

(4) The proposal maximizes the privacy of residents on the site and on abutting parcels.

(5) The proposal ensures that the size, location, design, color, texture, lighting and materials of all permanent signs shall not detract from the use and enjoyment of the site and the surrounding properties.

(6) The proposal protects Framingham's heritage by minimizing removal or disruption of historic, traditional or significant uses, structures or architectural elements, whether these exist on the site or on adjacent properties.

(7) The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent ways, property or improvements, and the proposed use will not result in a volume of traffic inappropriate to the public ways providing access to the site.

(8) Adequate parking facilities are provided in accordance with Section IV. of the Zoning By-Law.

(9) The proposal provides adequate methods of disposal and storage of wastes resulting from the uses proposed for the site, and adequate methods of drainage for surface water.

(10) The proposed uses and structures are consistent with any conditions imposed by the Town Meeting on the sale, lease, or transfer of the site.

In approving a Special Reuse Permit the ZBA may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, including a bond or other security to ensure compliance with the conditions of authorization.

F. TECHNOLOGY PARK DISTRICT

1. Purpose and Intent

The purpose and intent of these Technology Park District regulations is to promote technological and light industrial development so as to enhance employment and economic vitality by allowing a certain mix of land uses at a higher density, without a corresponding increase in traffic, than is otherwise permitted in other zoning districts. In addition, these provisions are intended to ensure that the technology park is served by a sufficient vehicular circulation network and infrastructure to meet the particular demands of the facilities within the park without a corresponding impact on services in surrounding residential neighborhoods and commercial areas in proximity to the park.

2. Applicability

a. The zoning classification of an area of land may be changed to a Technology Park District by vote of at least two-thirds of an annual or special town meeting provided said land complies with all of the following requirements:

1) Total land area shall not be less than one-hundred fifty (**150**) acres.

2) The land shall be located within an existing Light Manufacturing ("**M-1**") or General Manufacturing ("**M**") zoning district.

3) The land shall have direct vehicular access onto a divided multi-lane state highway by means of an existing public way or existing curb cut.

b. These regulations shall apply to all new construction as well as all proposals for development within the Technology Park District which must seek a Special Permit from the Planning Board for Off-Street Parking or Site Plan Review.

3. Permitted Uses

No building or structure shall be used, constructed or designed to be used in any part, and no change shall be made in the use of land or premises, except for one or more of the following purposes:

a. Research and development, including biotechnology; processing, assembly and manufacturing, provided the use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features;

b. Printing;

c. Delivery services;

d. Storage and distribution facilities;

e. Business and professional offices;

f. Educational training facilities and conference centers accessory to a permitted use;

g. Day care facilities.

4. Special Permit for Uses

The following uses shall require a special permit from the Planning Board:

a. Non-automotive commercial uses and services intended for the primary use and convenience of the employees of the Technology Park District such as restaurants, branch banks, financial services, personal services and dry cleaners, provided the same do not occupy more than two thousand five hundred (2,500) square feet each;

b. Centers for the performing arts.

c. Retail outlets, accessory to a use permitted by this section, having a gross floor area no greater than two thousand five hundred (2,500) square feet;

5. Floor Area Ratio Requirements in a Technology Park District

a. Table of Floor Area Ratios

The ratio of the gross floor area of any building or group of buildings on a lot, including accessory buildings but excluding parking garages or structures, to the area of the lot (Floor Area Ratio (FAR)) shall not exceed the Base FAR as specified in the following Table of Floor Area Ratios, except as provided in II.F.5.b. Special Permit for an Increase in FAR.

USE	BASE FAR	MAX. FAR
Retail, Commercial, day care	0.25	0.32
Business and professional offices, educational training facilities, conference centers and centers for the performing arts	0.4	0.6
Research and development, processing, assembly, manufacturing, printing, laboratory and associated offices	0.8	1.0
Storage, delivery and distribution facilities	0.8	1.0

b. Special Permit for an Increase in FAR

1) The Planning Board may grant, by special permit, an increase in the "Base FAR" up to the maximum FAR as specified in the Table of Floor Area Ratios, Section II.F.5.a., above, for parcels located in the Technology Park District, if all of the following conditions are met:

a) The increase in FAR will achieve the goals, intent and objectives of these Technology Park District Regulations.

b) The increased development complies with the Development Impact Standards set forth in Section VI.F.6. of the Zoning By-Law.

c) The applicant agrees to develop a transportation demand management (TDM) plan and actively participate in a transportation demand management program to reduce the number of peak hour vehicle trips. TDM programs shall include, but are not limited to, membership or contribution to a transportation management organization, carpooling program, public transportation voucher program, public transit system, bicycle trail and lane, pedestrian way, or shuttle service.

The Planning Board shall make written findings prior to approving or disapproving any application for Special Permit for an Increase in FAR.

2) Conditions Limitations and Safeguards

In granting approval of a Special Permit for an Increase in FAR, the Planning Board may attach such conditions, limitations and safeguards as are deemed reasonably necessary to promote the purpose and intent of these Technology Park District regulations. Such conditions shall be in writing and shall be part of such approval. Such conditions may include, but not be limited to, the following:

a) The conditions, limitations and safeguards stated in Section VI.F.8. a. through f.

b) In lieu of specific traffic mitigation, the applicant may at the request of the Planning Board, deposit with the Town, a sum of money equivalent to the requirements of Section VI.F.6.a. of the Zoning By-Law to be used for construction of roadway or other infrastructure improvements.

6. Special Regulations for Technology Park District

a. Participation in TDM:

All proposals for development within the Technology Park District which must seek a special permit from the Planning Board for Off-Street Parking or Site Plan Review, shall, at a minimum, be accompanied by a transportation demand management plan and evidence of active participation in a transportation demand management program.

b. Off-Street Parking Requirements:
The Base Parking Requirement for Research and Development, Processing, Assembly and Manufacturing, Printing, and Laboratory and for Associated Offices that the Planning Board finds are related and ancillary to these uses shall be 1 space per 800 square feet of gross floor area or 1 space per employee, whichever is greater. Additional parking requirements for the square footage above the Base FAR and up to the Maximum FAR shall be additive to the Base Parking Requirement and shall be calculated at 50 percent of the Base Parking Requirement.

7. Landscaped Open Space Requirements in the District

a. Minimum Landscaped Open Space in the Technology Park District shall be 25 percent (LSR=0.25) for all uses within the district, except Research and Development, Processing, Assembly and Manufacturing, Printing, and Storage and Distribution Facilities which shall have a minimum Landscaped Open Space of 20 percent (LSR = 0.20).

b. Landscaping within the Technology Park District shall be provided substantially in accordance with the goals and objectives of **Section III.E.8.** of this By-Law with the following exceptions:

1) Landscaped buffer strips along any public street shall be a minimum of 30' wide. The Board may reduce the buffer to 15' along the public way provided that the Applicant replicates the open space elsewhere on the site in the form of courtyard areas or other types of usable open space, as approved by the Board.

2) Sub-section **h.** "**Landscaping Within off-Street Parking Areas"** shall not apply. However, the parking areas shall, whenever feasible, be designed with landscaping which breaks up large expanses of asphalt with divider or terminal islands.

3) Sub-section **i. "Landscaping Adjacent to Buildings"** shall only apply to office, education and training facilities, conference centers, centers for performing arts and retail facilities that may be constructed within the Park.

G. ACCESSORY USES

Accessory uses shall be such as do not alter the character of the premises on which they are located or impair the neighborhood.

Any use permitted as a principal use is also permitted as an accessory use provided such use is incidental to and customarily found in connection with the principal use, building or structure and which is located on the same lot with the primary use, building or structure. Any use authorized as a principal use by a SPGA may also be authorized as an accessory use by the same SPGA provided such use is incidental to and customarily found in connection with the principal use, building or structure on the same lot with the primary use or building.
Any use not allowed in a zoning district as a principal use is also prohibited as an accessory use. An accessory use is permitted only in connection with a lawfully existing principal use. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.
In any instance where site plan review approval is required for a principal use, the addition of any new use accessory to the principal use, where such addition exceeds the thresholds established in Section VI.F.2., shall also require site plan review approval as amended from time to time.

H. TRAILERS

a. No automotive type of trailer, whether mobile or immobile, hereafter put in place upon any land within the Town of Framingham, shall be occupied for living purposes or business purposes for a period exceeding 30 days in the aggregate in any one year, except as may be permitted hereinafter.

b. The Zoning Board of Appeals, in its discretion, may permit such use on a temporary basis for a longer period, after formal application to said Board and after a duly advertised public hearing.

c. Temporary on-site trailers used for construction purposes shall be exempt from the provisions of this Section, but shall be subject to the State Building Code.

III. OVERLAY DISTRICTS

A. FLOODPLAIN DISTRICTS

1. Establishment of Districts

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Framingham designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Framingham are panel numbers 25017C0501F , 25017C0502F , 25017C0503F , 25017C0504F, 25017C0506F, 25017C0508F, 25017C0509F, 25017C0511F, 25017C0512F, 25017C0514F, 25017C0516F, 25017C0517F, 25017C0518F, and 25017C0519F, dated July 7, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Town Engineer, Building Department, Planning Department, and Conservation Commission

2. Applicability

a. All proposed development in a Floodplain District shall require a permit from the Building Commissioner.

b. In addition to a permit from the Building Commissioner, any construction, enlargement, extension, or substantial improvement of a new or existing building for human habitation, normally allowed by right or authorized by special permit in a land area underlying a Floodplain District, shall require a special permit from the Zoning Board of Appeals (ZBA).

c. In the regulatory floodway, any development or encroachment, including fill, which would result in any increase in flood levels during the base flood shall be prohibited. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

d. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones. All subdivision proposals must be designed to assure that:

(1) Such proposals minimize flood damage;

(2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

3. Application Procedure

Prior to the filing of an application subject to this section, the applicant shall submit plans to the Building Commissioner. The Commissioner shall advise the applicant as to the pertinent sections of the Zoning By-Law and the State Building Code, 780 CMR. If a special permit is required, the applicant shall then submit seven copies of the application to the ZBA, who shall forthwith transmit one copy each to the Town Clerk, the Conservation Commission, the Board of Health, the Engineering Department, the Planning Department, and the Planning Board. Such agencies shall, within 30 days of receiving said copy, submit a report containing recommendations and the reasons therefor to the ZBA, and may prescribe conditions deemed appropriate for the proposed use. The ZBA shall not render a decision on any such application until said recommendations have been received and considered, or until the 30-day period has expired, whichever is earlier. Failure of such agencies to submit their respective recommendations shall be deemed concurrence thereto.

To assist the ZBA in rendering its decision on the application, said application shall indicate at least the following:

a. All information normally required in a building permit application.

b. If approval for development must be obtained from the Commonwealth of Massachusetts or the United States Government or any agency or subdivision thereof, such approval shall be obtained, and a copy of the document setting forth such approval, and any conditions imposed thereon, shall be filed with the ZBA as part of this application.

c. The boundary of the special flood hazard area and the regulatory floodway shall be drawn on a plan of the site which shall also include contour lines at a maximum of two foot intervals. Base flood elevation on this site plan shall be certified by a registered professional engineer, architect, or surveyor. In unnumbered A zones base flood elevation data from sources other than the FIRM shall be obtained and reasonably utilized.

d. Location of existing and proposed sewer disposal facilities, leaching fields, and other utilities.

e. For any building to be occupied as a residence, certification by a registered professional engineer, architect, or surveyor that the proposed structure has been planned and designed to have the lowest floor, including the basement, elevated above the level of the base flood.

f. For any building not to be occupied as a residence, either certification as above that the lowest floor will be elevated above the level of the base flood, or certification by a registered professional engineer or architect that the building is planned and designed so that it will be watertight and anchored to resist forces associated with the base flood.

g. Other information as may reasonably be required by the ZBA to ensure compliance with the provisions of this section.

4. Conditions for Approval

In rendering its decision, the ZBA shall evaluate the extent to which the application meets the following conditions:

a. All other necessary permits have been received from those governmental agencies from which approval is required by Federal or State Law.

b. New construction (including prefabricated buildings and mobile homes) and substantial improvements will be anchored to prevent flotation and lateral movement, and will be constructed with flood-resistant materials and methods.

c. Proposed development, including utilities, drainage, and paved areas, is located and designed to be consistent with the need to minimize flood damage.

d. The site plan includes all required information, including base flood elevation data.

e. New water and sewer systems (including on-site systems) are located and designed to minimize infiltration.

f. New and substantially improved residential buildings have been planned and designed to have the lowest floor (including basement) elevated to or above the base flood level.

g. New and substantially improved non-residential buildings have been planned and designed to have the lowest floor (including basement) elevated to or above the base flood level; or be floodproofed to or above that level.

h. Where floodproofing is used in lieu of elevation, the floodproofing methods used are adequate to withstand the forces associated with the base flood.

i. Proposed development will not encroach on the regulatory floodway.

5. Occupancy Permit

No building newly constructed or substantially improved within a Floodplain District shall be occupied or used without an occupancy permit signed by the Building Commissioner which permit shall not be issued until the development complies in all respects with the site plan approved by the ZBA and any conditions imposed by the ZBA on the granting of a special permit for development in a Floodplain District. No occupancy permit shall be signed by the Building Commissioner until a Post Construction Elevation Certificate/Flood proofing Certificate has been submitted certifying

that the building has been elevated above the level of the base flood or, for non-residential buildings, that the building has been floodproofed at least to the base flood elevation. In cases where a variance has been granted by the ZBA permitting construction below the base flood level and/or without adequate floodproofing, an occupancy permit may be granted in accordance with the conditions imposed by the ZBA on the granting of a variance.

6. Notification of Watercourse Alteration

In a riverine situation, the Town Engineer shall notify the following of any alteration or relocation of a watercourse:

a. Adjacent communities affected by the alteration of the watercourse;

b. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation; and

c. NFIP Program Specialist, Federal Emergency Management Agency, Region I.

B. PLANNED UNIT DEVELOPMENT DISTRICT

1. Purpose and Intent

The purpose and intent of a Planned Unit Development (**PUD**) District is to allow by special permit from the Planning Board an alternative use and pattern of land development for large tracts of land zoned for manufacturing, light manufacturing or business, by allowing single-family and multi-family clustered residential development and other uses as permitted in this Section while encouraging the conservation of significant open space in the district and providing affordable housing opportunity, all in conformance with the provisions of M.G.L. Chapter 40A, Section 9. The PUD is a flexible zoning tool designed to meet the following public objectives:

a. to preserve significant areas of open space in perpetuity;
b. to encourage housing and land development which is harmonious with natural features and the environment;
c. to encourage a variety of housing types, sizes, characteristics, and price ranges;
d. to provide affordable housing to meet the housing needs of persons of low and moderate income;
e. to allow a limited neighborhood commercial area for the convenience of residents within the PUD District;
f. to provide recreational facilities within the District;
g. to promote more efficient uses of land and to preserve and protect natural resources such as wetland areas, woodlands, fields, natural habitats, significant vegetation, water bodies, and water supplies; and,
h. to preserve sites and structures of historical importance.

In the PUD, dwelling units should be constructed in appropriate clusters which are harmonious with neighborhood development and will not detract from the ecological and visual qualities of the environment. The overall site design and amenities should enhance the quality of living for the residents of the development and the town generally. Attention shall be given by the Planning Board as to whether the proposed site design, development layout, number, type and design of housing constitutes a suitable development for the neighborhood within which it is to be located.

2. Applicability

The Planned Unit Development District is an overlay district that may be superimposed upon a parcel or contiguous parcels of land having an area of at least fifty acres and located within a "**M**" **General** Manufacturing, "**B**" Business, or "**M-1**" Light Manufacturing, district by a vote of at least two-thirds of an annual or special town meeting. The area to be included within the PUD District may include strips of land not to exceed one-hundred feet in width through any zoning district solely for the purpose of providing access to the parcel from public streets. Any roadway within said access strip shall include suitable plantings or materials to provide a visual buffer between the road and adjacent uses. In the event Town Meeting votes to place such a parcel of land in an overlay PUD District, the applicant thereof may file an application for a special permit with the SPGA in accordance with the requirements of Section III.B.9. of this By-Law. The application for a PUD Special Permit shall include the entire parcel or parcels placed into the PUD District by vote of Town Meeting. The SPGA shall not accept applications for a special permit under this Section which do not include the entire parcel or parcels of land designated as a PUD District. In the event a PUD Special Permit is issued pursuant to this Section and the rights granted pursuant thereto are exercised by the owner/applicant, no land included within said district may be removed from the provisions of this Section and used in accordance with the underlying zoning district.

3. Definitions

a. Terms Defined

For the purpose of this PUD by-law, the following terms shall have the meanings given in the following clauses:

Affordable Housing Unit: A housing unit offered for either sale or rental at such terms, conditions and restrictions so as to be qualified as affordable to persons or families of low or moderate income by the Executive Office of Communities and Development of the Commonwealth of Massachusetts (EOCD). Said units shall be offered for sale or rental by or through one or more of the following: a program administered by the EOCD; the Framingham Housing Authority; a non-profit land trust or limited dividend entity; each such affordable housing unit shall be governed by adequate and enforceable deed restrictions or other agreements acceptable to the Planning Board ensuring the continuing affordability of the unit. Affordable housing units shall be compatible with and nearly indistinguishable from the exterior appearance of the market-rate units in the PUD district and should be located throughout the PUD district.

Applicant: The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The applicant must own, or be the beneficial owner of, all the land included in the planned development site proposed, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site within a period of sixty days from the time that the applicant shall notify the owner(s).

Congregate Housing: Housing units designed for elderly occupants in a facility which permits persons who do not require constant supervision or intensive health care as provided by an institution, to maintain a semi-independent life-style while providing services such as common dining facilities, a nursing staff, and other services and amenities as needed. Each such housing unit may provide one or more bedrooms and may have a separate living room, kitchen, dining area and bathroom. The total number of congregate housing units within the PUD District shall not exceed twenty-five percent of the total allowable housing units within the PUD District.

Developable Land: All land located within the PUD District exclusive of wetlands as said terms is defined in the Wetlands Protection Act (Chapter 131, Section 40 of Massachusetts General Laws).

Floor Area Ratio: As used in this Section, the floor area ratio is the ratio of the gross floor area of all buildings within the PUD District to the area of developable land within the PUD District provided, however, that the gross floor area of garages, attics and basements which are not designed to be used or occupied as living areas shall be excluded.

Housing Unit: A room, group of rooms, or dwelling forming a habitable unit for one family with facilities for living, sleeping, cooking and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit.

Long Term Health Care Center: A nursing home or similar geriatric health care facility accessory to and operated in conjunction with congregate housing for the elderly within the PUD District. The number of beds contained within said facility shall not exceed twenty-five percent of the total number of congregate housing units within the PUD District.

Neighborhood Commercial Uses: Commercial uses intended for the primary use and convenience of the residents within the PUD District, including retail sales and services (except automotive sales or services which are not permitted); restaurants (except drive-through or take-out window service which is not permitted); branch banks and financial services; business and professional offices; personal services and day-care centers.

b. Terms Not Defined

Any terms not defined in this Section but defined elsewhere in the By-Law or in the State Building Code or in Massachusetts General Laws shall have the meanings given therein to the extent the same are not inconsistent with this Section.

4. Basic Requirements

a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use or improvement in a PUD District unless an application for a special permit has been prepared for the proposed development in accordance with the requirements of this Section, and unless such special

permit has been approved by the SPGA. The SPGA for a special permit granted under this Section shall be the Planning Board.

b No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development or any phase thereof and any associated off-site improvements conform to the approved application for a special permit under this Section including any conditions imposed by the Planning Board. No temporary occupancy permits shall be granted under this PUD by-law.

c. If a PUD special permit is not applied for within 3 years of the Town Meeting vote to create a PUD overlay zone for a parcel of land, such land shall, after said three years, not be eligible for a PUD special permit. Town Meeting may, by two-thirds vote, extend this time limit.

5. Permitted Uses

No building or structure shall be constructed, used or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

a. Single-family detached and attached residences, multifamily residential buildings and congregate housing for the elderly, including a long term health care facility associated therewith. Not less than ten percent (10%) of all such housing units, including units for both sale and rental, shall qualify as affordable housing as said term is defined in Section III.B.3. of this By-Law. Each phase of the development shall have approximately ten percent (10%) of its units qualify as affordable, and said affordable units shall be dispersed throughout the development and in various housing types. Not more than twenty percent of the housing units within the PUD District, exclusive of any congregate housing units for the elderly and affordable housing units, shall be rental units. The remainder of the units shall be owner-occupied.

b. Neighborhood commercial uses intended for the primary use and convenience of the residents within the PUD District as defined in Section III.B.3. of this By-Law. As a general rule, no such establishment shall occupy more than 2,500 square feet and shall be subject to reasonable restrictions and conditions relating to size and hours of operation imposed by the Planning Board. The Planning Board may refuse to authorize a commercial use which in its judgment is inappropriate for location within the PUD District. The Planning Board may permit larger neighborhood commercial establishments, up to a limit of 4,000 square feet, based on a clear demonstration by the applicant and a finding by the Planning Board that such larger size meets the needs of the residents in the PUD District.

c. Recreational facilities intended for the primary use and convenience of the residents thereof, such as swimming pools, exercise facilities, tennis courts and athletic fields (but not including driving ranges, miniature golf, or commercial amusement parks which are not permitted).

6. Dimensional and Area Regulations

a. Applicability

The dimensional and area regulations set forth in this Section shall apply to the total area of developable land within the PUD District and shall not regulate individual lots therein.

b. Maximum Allowable Density

The total number of residential housing units shall not exceed seven per acre of developable land within the PUD District. For purposes of this density calculation, every two bedrooms within a congregate housing facility as defined in Section III.B.3. shall be counted as one residential housing unit. Notwithstanding the aforesaid density limitations, the Planning Board may reduce the maximum allowable density within a PUD District; provided, however, that any such reduction be limited to that which is reasonably necessary to satisfy the objectives of a PUD District as defined herein. The Planning Board may also take into consideration the density of development on land surrounding the PUD District and the presence, or lack thereof, of undevelopable land and open space contained within and abutting the PUD District.

c. Floor Area Ratio Requirement

The ratio of the gross floor area of all buildings, residential and commercial, within the PUD District, to the total area of developable land within the District shall not exceed 32% (0.32).

d. Ground Coverage Requirement

(1) The ground coverage of all residential and commercial buildings and parking lots and impervious landscaping within the PUD District shall not exceed 40% of the total area of developable land within the District. The ground coverage of all roadway areas and associated sidewalks shall be excluded from this requirement.

(2) The ground coverage of all land and buildings used for commercial purposes, including associated parking lots, loading areas and impervious landscaping within the PUD District shall not exceed 2% of the developable land area of the District.

e. Setback Requirements

Setbacks within PUD Districts shall conform to the following requirements; provided, however, that the Planning Board may reduce the setback requirements or may require greater setbacks to provide additional buffers to residences abutting the PUD District or to enhance the aesthetic appearance or planning objectives of this project.

(1) Setbacks Abutting Other Districts

All structures within a PUD District shall have a minimum setback requirement of 50 feet from the PUD District boundary line.

(2) Front Setback Requirements

All structures within a PUD District shall have a minimum setback from any front lot line or any street line of 30 feet.

(3) Separation of Buildings

All buildings within the PUD District shall have a setback of at least 30 feet from any other building therein. The required setback for any building which exceeds forty feet in height shall equal to the height of that building.

f. Maximum Height Requirement

The maximum height of any building in a PUD District shall not exceed three stories or forty feet except for accessory structures or appurtenances normally built above the roof level and necessary for the operation of the building or use. Such structures shall not be intended for human occupancy and shall be erected only to serve the purpose for which they are intended. Except for chimneys and penthouses for stairways and mechanical installations, no such accessory structure or appurtenance shall exceed a height of 40 feet from the average grade.

g. Solar Orientation of Buildings

Spacing of buildings and landscaping, wherever possible and practical, shall be oriented to optimize solar exposure for buildings within the PUD District.

7. Open Land Requirements

a. Basic Requirement

Open space shall be provided in a PUD District in accordance with the requirements of this section.

b. Public Open Space

Significant areas of land within the PUD District which are not developable and are classified as wetlands in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Ch.131 Section 40) and the Regulations of the Department of Environmental Protection (DEP) promulgated thereunder, including the wildlife protection regulations, shall be designated as “Public Open Space”. Said areas shall be preserved as open space in perpetuity and either conveyed to the Conservation Commission of the Town of Framingham, or to a non-profit organization whose principal purpose is the conservation of open space, or shall be protected by means of a conservation restriction imposed on the land pursuant to M.G.L. Chapter 184, Section 31.

c. Common Open Space

A minimum of 25% of the total developable land within the PUD District, exclusive of land set aside for streets within the district, shall be designated "Common Open Space". Common Open Space shall include all developable land not dedicated to roads, parking areas, buildings and structures. At least 50% of the required common open space shall be suitable for passive or active recreational use by residents of the PUD District. Common Open Space may be used for recreational facilities, as delineated in Section III.B.5.(c); and for passive open space and buffer areas. Common open space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by residents of the PUD district; and, where possible, be located such that significant areas of continuous open space are distributed throughout the PUD District. There shall also be significant areas of common open space near areas containing high concentrations of housing units.

The approximate location of major areas of Public Open Space and Common Open Space shall be identified as part of the Preliminary Development Plan. The granting of a special permit for this plan shall include as a condition that the large areas of open space identified on the Preliminary Development Plan be preserved approximately as shown, with the understanding that the precise definition of such open space might be altered with the submittal and approval of Definitive Development Plans.

d. Ownership of Common Open Space, Restrictions Thereon

The required open land shall be conveyed to a non-profit corporation or trust comprising a condominium or homeowner's association. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Middlesex South District Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

(1) mandatory membership in an established association, as a requirement of ownership of any condominium unit, rental unit, building or lot in the tract.

(2) provisions for maintenance, assessments of the owners of all condominium units, rental units, buildings or lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the home's association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by the association.

(3) provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law.

(4) provisions for limited easements to significant areas of open space and natural resources for recreational use by residents of the Town, and to provide linkages to open space of abutting properties.

The developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the association is capable of assuming said responsibility.

8. Design Standards, Off-Street Parking and Loading Requirements

a. Basic Requirements

The Project shall be designed and constructed in accordance with the Design Standards and Specifications set forth in Section VII of the "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM".

b. Off-Street Parking

Off-street parking facilities for structures and uses within a PUD District shall conform to all regulations and design standards set forth in Section IV.B. of the Zoning By-Law. In addition to the setback and landscaping requirements set forth in Section IV.B., the Planning Board may require that any parking lot which contains more than 12 parking spaces be suitably screened by a landscaped area with trees which are of a type that may be expected to form a permanent screen.

c. Off-Street Loading

Off-street loading facilities for structures and uses within a PUD District shall conform to all regulations and design standards set forth in Section IV.C. of the Zoning By-Law.

d. Garages

The construction of individual garages attached to or within housing units is encouraged where feasible, taking into consideration the topography, layout, type, architectural design and price of the unit.

9. Special Permit Applications and Review Procedure

a. It is the intent of this section to allow for phased construction of buildings and improvements within a Planned Unit Development district over a period of years, and to permit the phased submittal of certain plans and information. The special permit application, review and approval process provides for filing of a "Preliminary Development Plans" followed by one or more "Definitive Development Plans" together with the reports and information required by Section III.B.9.

b. The Applicant shall submit to the Planning Board a letter of intent to apply for a Special Permit for a Planned Unit Development. The Planning Board shall set up a Pre-Application Conference with department heads within the Town, including representatives of the Planning Board, Planning Department, Engineering Department, Department of Public Works, Police Department, Fire Department, Parks and Recreation, Building Department, Conservation Commission and Board of Health. The Pre-application Conference allows the Applicant the opportunity to present to town officials a description of the proposed project with a sketch plan of the entire tract, and to receive comments regarding important areas of concern to be addressed in the planning process for the development.

c. The Applicant shall file with the Planning Board ten copies of the Application for a PUD Special Permit, a Preliminary Development Plan and, at the option of the applicant, one or more Definitive Development Plans for the initial phases of the development, conforming to the requirements of Section III.B.10. The Application shall be accompanied by the required filing fee as established by the Planning Board. One copy of the application shall be filed simultaneously with the Town Clerk. The Planning Board shall immediately review the applications for completeness and shall, within 14 days, notify the applicant if it finds the application to be incomplete. Failure of the applicant to complete the application within 14 days of Planning Board notice will result in disapproval of the special permit without prejudice.

d. Upon receiving a completed application as set forth above, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Engineering Department, the Planning Department, the Police Department, the Fire Department, the Board of Public Works, the Board of Health and such other departments and boards at the Planning Board may determine appropriate.

e. Such agencies shall, within 35 days of receiving said copy, report to the Planning Board on (1) the adequacy of the data and the methodology used by the applicant to determine the impacts of the proposed development and (2) the effects of the projected impacts of the proposed development. Said agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such agency to report within the allotted time shall constitute approval by the agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will cause no adverse impact. If reasonably necessary to properly evaluate the proposal, the Planning Board may require additional reports or studies to be performed by an outside consultant and to be paid for by the applicant. If necessary, the Planning Board shall request the written consent of the applicant to extend the time allowed to hold a public hearing or take action on the application.

f. The Planning Board shall not render a decision on said application until it has received and considered all reports requested from town departments and boards, or until the 35-day period has expired, whichever is earlier. Where circumstances are such that the 35-day period is insufficient to conduct an adequate review, the Planning Board may, at the written request of the applicant, extend such period.

g. The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing of a complete application, shall properly serve notice of such hearing, and shall render its decision within 90 days of the close of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L.c.40A, Sections 9 and 11. All costs of the notice requirements shall be at the expense of the applicant.

h. Within 30 days after receiving a letter of intent to apply for a special permit for a Planned Unit Development, the Planning Board shall appoint an ad hoc Design Review Committee after consideration of recommendations for membership from the Planning Board Administrator. The Committee shall consist of seven residents of the town and whenever possible shall be composed as follows: (1) two residents of the general area surrounding the proposed PUD, (2) a land use planner or similar consultant, (3) an architect or similar consultant, (4) a landscape architect or similar consultant, (5) a civil engineer or similar consultant, and (6) a town meeting member from the precinct in which the land is located. No committee member may have a financial interest of any kind in the PUD. At the direction of the Planning Board, the committee shall meet with the Applicant and the Applicant's consultants to discuss and review the land planning and architectural features of the proposed development, including site layout, roadway system, location and design of recreational areas and open space, architectural design and groupings of buildings. During the special permit process, the committee shall make recommendations and/or comments to the Planning Board. The Planning Board shall adopt rules and regulations governing the selection process of committee members and its function in the hearing and review process in accordance with this Section.

i. In reviewing the impacts of a proposed Planned Unit Development, the Planning Board shall consider the information presented in the Application for a PUD Special Permit, including all items specified in Section III.B.10., all reports of Town departments submitted to the Planning Board pursuant to Section III.B.9.(e); reports, comments or recommendations of the ad hoc Design Review Committee, and any additional information available to the Planning Board, submitted to the Planning Board by any person, official or agency, or acquired by the Planning Board on its own initiative or research.

j. The Planning Board shall grant the special permit only if it finds that the application satisfies the objectives of a PUD as defined in Section III.B.1., and only if it can make the specific findings required by Section VI.F.7. of the Zoning By-Law.

k. A PUD Special Permit granted pursuant to this Section shall establish and regulate the following as conditions for approval:

(1) location of all primary streets and ways within the development, including access to existing public ways, with the layout, design, construction and other relevant standards for such streets and ways to conform to the Rules and Regulations Governing the Subdivision of Land in the Town of Framingham;

(2) locations of significant areas of public open space and common open space;

(3) boundaries of lots to be created within the development, if any;

(4) overall project density, including the distribution of housing units to avoid undue concentration of development, as well as maximum number of housing units that may be built within the development, including maximum number of building permits that may be issued within any twelve month period;

(5) location and boundaries of each development phase;

(6) location of commercial establishments;

(7) development timetable;

(8) off-site traffic improvements and environmental mitigation measures, if any to be performed by the Applicant, including timetables and procedures for implementation of the same;

(9) requirements for instruments to be executed by the owners of the land and recorded with the Registry of Deeds waiving all rights to previously issued permits and approvals for commercial or industrial buildings and uses for the land, if any, and to future uses of the land which would be otherwise permitted by the zoning district in which it is located, except as specifically allowed by this PUD By-Law;

(10) such other terms, conditions or restrictions as the Planning Board may deem appropriate.

10. Contents and Scope of Application

An application for a PUD Special Permit under this section shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect and a Registered Landscape Architect, and shall include the following items and information:

a. Pre-application Conference Submittal

The following materials are to be provided for the Pre-Application Conference by the Applicant. An approximately scaled sketch plan of the entire tract which shows in schematic detail the location of proposed uses and major buildings, proposed development density, housing types, layout of roads by function, location of entrances, and layout of common and public open spaces. The sketch should be accompanied by a brief narrative that describes general design and architectural policies for the PUD, location and treatment of environmentally sensitive land located in the project tract, and the proposed time frame for phased development.

b. Preliminary Development Plan

(1) A legal description of the land, including ownership.

(2) A narrative of the project, including a statement of planning objectives, size of the parcel, number of residential units proposed, proposed coverage and densities, amount of non-residential construction proposed, recreational facilities planned for the development, construction schedule and a description of how the project satisfies the objectives of the PUD by-law set out in Section III.B.1.

(3) A plan to be entitled "Preliminary Site Plan of Planned Unit Development for (identity of project)" prepared at a scale of one inch equals forty feet (1"=40') or such other scale as may be approved by the Planning Board containing the following information: site boundaries and names of all abutters, site area, location of all primary streets and ways within the site, including access points to existing public ways, the proposed system of drainage, including adjacent existing natural waterbodies, location of significant natural features and vegetation of the site, including wetland areas, water bodies and floodplain areas, boundary lines of existing and any proposed lots within the site, designation of each proposed phase of development, location of major recreational areas and open space, location of amenities such as swimming pools and tennis courts, and setting forth the total number of residential units to be constructed within the development.

(4) A locus plan at a scale of one inch equals 100 feet (1"=100'), showing the entire development and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board.

(5) A Development Impact Statement prepared in accordance with the requirements of Section VI.F.5.(f) (Site Plan Review) of this Zoning By-Law, to be evaluated in accordance with the “Development Impact Standards” of Section VI.F.6. of said By-Law, and subject to the requirements and conditions of Sections VI.F.7. and VI.F.8. of said By-Law.

c. Definitive Development Plan

Each phase or sub-phase of a Planned Unit Development shall require the filing and approval by the Planning Board of a Definitive Development Plan prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect and a Registered Landscape Architect, and shall include the following items and information:

(1) A site plan at a scale of one inch equals forty feet (1"=40'), or such other scale as may be approved by the Planning Board, containing all items and information normally required to be included in a Site Plan under Section VI.F, and also indicating water service, sewer, waste disposal, and other public utilities on and adjacent to the site. For convenience and clarity, this information may be shown on one or more separate drawings.

(2) A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.

(3) An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries.

(4) Building elevation plans at a scale of one-sixteenth inch equals one foot (1/16"=1'-0") or one-eighth inch equals one foot (1/8"=1'-0"), showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.

(5) Condominium documents and/or other instruments to be reviewed and approved by Town Counsel and which

(a) adequately provide for and ensure the preservation and maintenance of public and common open space within each phase or sub-phase shown on the aforesaid site plans and

(b) provide that no more than twenty percent of the housing units, exclusive of any congregate housing units for the elderly and affordable housing units, shall be rental units and that the remainder shall be owner-occupied.

11. Relation to Subdivision Control Law

In the event the Applicant seeks subdivision approval for streets and lots within the PUD District pursuant to the Subdivision Control Law (M.G.L. Chapter 41, Sections 81K thru 81GG), the Applicant shall file an "Application for Approval of Definitive Plan" pursuant to the RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM. In order to facilitate processing the Planning Board shall consider said application simultaneously with the application for a PUD Special Permit, and may adopt regulations establishing procedures for the simultaneous submission and consideration of the applications; provided, however, that nothing contained herein shall be deemed to require approval of streets and ways within a PUD District under the Subdivision Control Law. Any subdivision of land within the PUD District shall in no way diminish the effect of any conditions, agreements or covenants imposed or made as part of the grant of a PUD special permit.

12. Administration

a. The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this Section, including additional regulations relating to the scope and format of reports required hereunder.

b. The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this Section. No application shall be considered complete unless accompanied by the required fees.

c. The Planning Board shall be responsible for deciding the meaning or intent of any provision of this Section which may be unclear or in dispute.

C. ADULT USES DISTRICTS

1. Purpose and Intent

This bylaw is enacted pursuant to MGL Chapter 40A Section 9A to serve the compelling Town interests of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of the deleterious effect on the character and values of adjacent areas.

2. Applicability

a. An area of land may be placed within an Adult Uses Overlay District by vote of at least two-thirds of an annual or special Town Meeting.

b. Individual developments may be subject to Site Plan Review and Off-Street Parking Plan provisions as provided in this By-Law.

c. A special permit issued under this Section shall lapse upon any one of the following occurrences:

1) There is a change in the location of the adult use;

2) There is a sale, transfer or assignment of the business or the license;

3) There is any change in ownership or management of the applicant.

3. Establishment of Districts and Relationship to Underlying Districts

a. The Adult Uses Overlay Districts are established as districts which overlay the underlying districts, so that any parcel of land lying in an Adult Use Overly District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.

4. Permitted Uses

a. All uses permissible and as regulated within the underlying district.

5. Special Permit Uses

The following uses shall require a special permit from the Zoning Board of Appeals:

Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment

6. Special Permit Standards for Adult Uses

No special permit may be granted by the Zoning Board of Appeals for an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment unless the following conditions are satisfied:

a. Locational Conditions:

No Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment may be located less than 1,000 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, or another Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment. The 1,000 feet distance shall be measured from all property lines of the proposed use.

b. Display Conditions

No signs, graphics, pictures, publications, videotapes, movies, covers, or other implements, items, or advertising, that fall within the definition of Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment merchandise, or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

c. Applicant Conditions

No special permit shall be issued to any person convicted of violating the provisions of MGL Chapter 119 Section 63 or MGL Chapter 272 Section 28.

7. Any special permit granted under this section shall lapse within two years of the date of grant, not including the time required to pursue or await the termination of an appeal referred to in MGL Chapter 40A Section 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

D. GROUNDWATER PROTECTION DISTRICT

1. Purpose of District

The purpose of this Groundwater Protection District is to:

a. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Framingham;

b. preserve and protect existing and potential sources of drinking water supplies;

c. conserve the natural resources of the town; and

d. prevent temporary and permanent contamination of the environment.

2. Scope of Authority

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

3. Definitions

For the purposes of this section, the following terms are defined below:

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

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

Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Framingham. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c. 21C and 21E and 310 CMR 30.00.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

Low Impact Development (LID): A stormwater management system that integrates hydrologic controls into a site's design by replicating predevelopment conditions.

Non-sanitary Wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(5).

Open Dump: A facility that is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or the regulations and criteria for solid waste disposal.

Potential Drinking Water Sources: Areas that could provide significant potable water in the future.

Recharge Areas: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include areas designated by Department of Environmental Protection (DEP) as Zone I, Zone II, or Zone III.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil, which are removed at the headworks of a facility.

Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

Very Small Quantity Generator: Any public or private entity, other than residential, that produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas that is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c. 21. § 52A.

4. Establishment and Delineation of Groundwater Protection District

For the purposes of this district, there are hereby established within the Town of Framingham certain groundwater protection areas, consisting of aquifers or recharge areas that are delineated on a map. This map is entitled Groundwater Protection District Map, Town of Framingham. This map is hereby made a part of the Town of Framingham Zoning By-Law and is on file in the Office of the Town Clerk.

5. District Boundary Disputes

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the Planning Board. Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. At the request of the owner(s), the Town of Framingham may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

6. Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

i. conservation of soil, water, plants, and wildlife;

ii. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;

iii. foot, bicycle and/or horse paths, and bridges;

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

v. maintenance, repair, and enlargement of any existing structure, subject to Section 7 and Section 9 of this bylaw;

vi. residential and commercial development, subject to Section 7, Section 8, and Section 9 of this bylaw;

vii. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 7 and Section 9 of this bylaw; and

viii. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

7. Uses Permitted by Administrative Approval

The following uses shall not require a special permit pursuant to Section 9 herein and are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained, and further provided that the use has been approved by the Department of Public Works (DPW) Director or designee after review of plans and documentation deemed appropriate by the DPW Director.

i. Existing lots, either occupied, or proposed to be occupied, by single or two family residences and not subject to subdivision review provided that recharge shall be attained through site design that incorporates natural drainage

patterns and vegetation in order to maintain pre-development stormwater patterns and water quality to the maximum extent practicable.

8. Prohibited Uses

The following uses are prohibited within the Groundwater Protection District:

i. landfills and open dumps as defined in 310 CMR 19.006;

ii. automobile graveyards and junkyards, as defined in M.G.L. c. 140B, §1;

iii. landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to M.G.L.c. 21, §26 through §53; M.G.L.c. 111, §17; M.G.L c. 83, §6 and §7, and regulations promulgated thereunder;

iv. facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L.c. 21C and 310 CMR 30.00, except for:

a) very small quantity generators as defined under 310 CMR 30.000;
b) household hazardous waste centers and events under 310 CMR 30.390;
c) waste oil retention facilities required by M.G.L. c. 21, §52A;
d) water remediation treatment works approved by the DEP for the treatment of contaminated ground or surface waters;

v. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.

vi. storage of liquid hazardous materials, as defined in M.G.L.c. 21E, and/or liquid petroleum products unless such storage is:

a) above ground level, and;
b) on an impervious surface, and
c) either
(i) in container(s) or above ground tank(s) within a building, or;
(ii) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;

vii. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

viii. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

ix. storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

x. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, swimming pools, roads, or utility works;

xi. discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:

a) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
b) treatment works approved by the Department of Environmental Protection and designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
c) publicly owned treatment works;

xii. stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district; and

xiii. storage of commercial fertilizers, as defined in M.G.L. Chapter 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

9. Uses and Activities Requiring a Special Permit

The following uses and activities are permitted only upon the issuance of a special permit by the Planning Board under such conditions as they may require:

i. enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;

ii. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 8). Such activities shall require a special permit to prevent contamination of groundwater;

iii. any use, other than those permitted by administrative approval pursuant to Section 7 herein, in which more than 15% or 2,500 square feet of the lot coverage, whichever is greater, is rendered impervious. In such instances, a system for groundwater recharge must be provided that does not degrade groundwater quality. A stormwater management plan shall be developed that provides for the artificial recharge of precipitation to groundwater through site design incorporating natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (detention) ponds, water quality swales, sand filters, organic filters or similar site appropriate best management practices capable of removing nitrogen and other contaminants from stormwater and meeting the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, Volumes 1 and 2, dated March 1997 or latest edition thereof, for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, and other surface water bodies, wetlands or vernal pools. Dry wells shall be prohibited.

Except when used for roof runoff from non galvanized roofs, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or other best management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities. All such artificial recharge systems shall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the permitting authority to ensure that systems function as designed.

10. Procedures for Issuance of Special Permit

A. The SPGA under this bylaw shall be the Planning Board. Such special permit shall be granted if the Planning Board determines, in conjunction with the Board of Health, the Conservation Commission, and Department of Public Works, that the intent of this bylaw, as well as its specific criteria, are met. The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Planning Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The Planning Board shall document the basis for any departures from the recommendations of the other Town of Framingham boards or agencies in its decision.

B. Upon receipt of the special permit application, the Planning Board shall transmit one copy to the Board of Health, the Conservation Commission, and Department of Public Works for their written recommendations. Failure to respond in writing within 35 days of receipt from the Planning Board shall be deemed lack of opposition thereto or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

C. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 9 of this bylaw, and any regulations or guidelines adopted by the Planning Board. The proposed use must:

1. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and

2. be designed to minimize disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

D. The Planning Board may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town of Framingham.

E. The applicant shall file 15 copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Planning Board and be stamped by a professional engineer registered in the Commonwealth of

Massachusetts. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

1. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
    a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
    b. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
    c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection;
    d. proposed down-gradient location(s) for groundwater monitoring well(s), should the Planning Board deem the activity a potential groundwater threat.

F. The Planning Board shall hold a hearing, in conformity with the provision of MGL Chapter 40A, § 9, within 65 days after the filing of the application and after the review by the Town of Framingham Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, §11. The decision of the Planning Board and any extension, modification, or renewal thereof shall be filed with the Planning Board and Town Clerk within 90 days following the close of the public hearing. Failure of the Planning Board to act within 90 days of the close of the public hearing shall be deemed as a granting of the permit.

E. HIGHWAY OVERLAY DISTRICT REGULATIONS

1. Purpose and Intent

The purpose of this Section E is to manage the intensity of development and the quality of design along major highway corridors so as to protect the public health, welfare and safety and to enhance the economic vitality of the area. In particular, the provisions of this Section E are designed to limit congestion, to preserve environmental qualities, to improve pedestrian and vehicular circulation, and to provide for mitigation of any adverse impacts resulting from increased development in a complex regional center. In addition to these purposes, the open space and landscaping provisions of this section are designed to foster development that is of high visual and aesthetic quality.

Furthermore, it is a specific purpose of this Section E to establish parallel and consistent zoning regulations for highway corridor areas which are shared by the Towns of Framingham and Natick, in order to achieve a unified development character for such areas and to avoid substantive and procedural conflicts in the regulation and administration of land uses within such areas.

This Section E establishes a system whereby a development may attain a greater density than allowed by right, in return for providing public benefit amenities which compensate for one or more specific effects of increased density. These amenities may include traffic improvements (to accommodate increased traffic), pedestrian or transit improvements (to reduce traffic generation), creation of additional open space and public parks (to compensate for increased congestion and concentration of economic activities), provision of public assembly areas (to foster more balanced development and a sense of community).

The provision of increased development density in return for such amenities is specifically authorized by MGL Ch. 40A, Sec. 9, with respect to open space, traffic and pedestrian amenities, and is also generally authorized for other amenities.

2. Definitions

The following terms shall be specifically applicable to these Highway Overlay District regulations and shall have the meanings provided below.

Bonus: The construction of floor area in excess of that permitted as of right by the applicable FAR maximum.

Bonus Project: A project for which the applicant is seeking any one or more of the bonuses provided in Section 9of these Regulations.

Change In Use: A change in part or all of an existing structure from one use category or purpose to another use category or purpose. In a mixed or multi-use facility, an exchange or rearrangement of principal use categories or components shall not be construed as a change in use unless the net change in any of the factors in the [Table of Off-Street Parking Regulations, Subsection IV.B.1(a)], requires an addition of 10 or more parking spaces to the amount required by this By-Law prior to the change in use.

Divider Island: A landscaped element running in a direction parallel to a vehicular travel lane, used to separate parallel rows of parking spaces.

Excess Pervious Landscaping: Pervious landscaping exclusive of wetlands, as defined herein, in excess of the amount required by the applicable LSR.

Floor Area Ratio (FAR): The ratio between (1) the gross floor area of all buildings on a parcel, including accessory buildings, and (2) the total area of the parcel.

Landscape Surface Ratio (LSR): The ratio between (1) the area of a parcel devoted to pervious landscaping or natural vegetated areas and (2) the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in M.G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred feet of an upland area adjoining a developed area of the project.

Major Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area equal to or greater than 15% over the gross floor area in existence on January 1, 1992; or which is equal to or more than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, more than five thousand (5,000) square feet, which ever is the lesser amount.

Minor Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area of less than 15% over the gross floor area in existence on January 1, 1992; or which is less than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, less than five thousand (5,000) square feet, which ever is the lesser amount.

Nonbonus Project: A project for which the applicant is not seeking a bonus.

Open Space Public Benefit Amenity: A public benefit amenity in the form of a park or excess pervious landscaping, available for passive or active recreation, or leisure use, by the public.

Parcel: All lots utilized for any purpose in connection with creating a development, e.g. buildings, parking and detention basins.

Park: A continuous area of open space which is directly accessible to the public for scenic, recreational or leisure purposes.

Pedestrian Circulation Improvement: A public benefit amenity in the form of a pathway, off- site sidewalk or pedestrian bridge designed to facilitate pedestrian movement.

Pedestrian Bridge: A structure designed to convey pedestrians over a watercourse, railroad, or public or private right of way.

Pedestrian Tunnel: A structure designed to convey pedestrians under a watercourse, railroad, or public or private right of way.

Pervious Landscaping: Area that is principally covered with natural materials such as grass, live plants or trees.

Public Assembly Space: A room or facility, such as a meeting room, theater, amphitheater or auditorium, which is available on a not-for-profit basis for use by members of the public for civic and cultural events.

Public Benefit Amenity: An improvement, facility or financial contribution for the benefit of the general public, provided in connection with a development in order to qualify for an increase over the Base FAR.

Public Transit Endowment: A contribution to a trust fund, maintained by the Town of Framingham or another governmental body designated by the Board of Selectmen, established for the purpose of providing long-term financial support for local or regional transit systems serving the Regional Center district.

Service Road: A road that is designed to provide access to abutting properties so that the volume of traffic entering onto or exiting from major roadways is reduced.

Terminal Island: A landscaped element running in a direction parallel to individual parking spaces and having a minimum length equal to the length of any abutting parking space found at the end of a row.

Transit Amenity: A public benefit amenity which contributes to the use and/or long-term availability of public transit and is either a transit-related lane widening or public transit endowment.

Transit-Related Lane Widening: A new or expanded lane on an existing street, designed and reserved for use by high occupancy vehicles, such as buses and vans.

3. Establishment Of Districts

a. General

The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. There are two such overlay districts: the **REGIONAL CENTER** (**RC**) District and the **HIGHWAY CORRIDOR** (**HC**) District.

b. Regional Center (RC) District

1) The RC district shall be bounded as follows:

- Easterly by the Framingham-Natick Town line;
- Southerly by the boundary line between the General Business district and the R-1 Single Residence district on the southerly side of Worcester Road (State Route 9);
- Westerly by the intersection of Worcester Road and Cochituate Road (Route 30);
- The Northerly boundary shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of that portion of the northerly right-of-way of Cochituate Road, between Worcester Road (Route 9) and the Framingham-Natick Town line.

2) If, as of January 1, 1992, any portion of the area of a parcel falls within the RC district, then the entire parcel shall be deemed to fall within the district.

c. Highway Corridor (HC) District

The HC District shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of the right-of-way of Worcester Road (Route 9), but excluding (a) parcels that are included in

the RC district as set forth above; (b) parcels located on the northerly side of Worcester Road between Edgell Road and the westerly ramp leading onto Route 9 (the Framingham Center); (c) the parcels known as the Framingham Industrial Park; and (d) and the parcels known as 9/90 Crossing.

d. Relationship to Underlying Districts

1) The Highway Overlay Districts shall overlay, all underlying districts, so that any parcel of land lying in a Highway Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.

2) All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified or supplemented by other provisions of the applicable Highway Overlay District.

3) Requirements for off-site contributions under Site Plan Review:

a) For non-bonus projects, the requirements of Sections VI.F.6(a) and VI.F.8.(c) regarding contributions for off-site improvements shall apply.

b) For bonus projects which comply in all other respects with the requirements of this Section E. and other provisions of the By-Law, the provisions of this Section E. regarding contributions for off-site improvements and public benefit amenities shall supersede and replace the requirement for off-site improvements under Section VI.F.6.(a) and VI.F.8.(c).

4. Use Regulations

a. General

1) The Highway Overlay Districts are herein established as overlay districts. The underlying permitted uses are permitted. However a developer must meet the additional requirements of this Section E.

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

b. Multiple Use Developments

Multiple use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

5. Intensity Regulations

a. Base Floor Area Ratio (FAR) for Nonresidential Development

For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified below in this section.

b. Increase in FAR for New Construction with Public Benefit Amenities in the RC District

The Planning Board may, by Special Permit, grant an increase in the maximum floor area ratio above 0.32, up to a maximum FAR of 0.40, for parcels located in the Regional Center (RC) zoning district, subject to the following requirements:

1) Increased pervious landscape surface shall be provided in accordance with Section 6(b) of these Highway Overlay Districts Regulations.

2) Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined in accordance with the schedule of bonuses set forth in Section 9 of these Highway Overlay Districts Regulations. A FAR increase shall be granted only if the Board makes the Findings required in sub-paragraph g. of this Section 5.

c. Increase in FAR for Consolidation of Lots in the RC or HC Districts

In order to encourage consolidation of lots, the Planning Board may, by special permit, grant an increase in the floor area ratio above 0.32. Such increase shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, or 12,000 square feet, whichever is lesser, up to a maximum FAR of 0.40.

A FAR increase shall be granted only if the Board determines that the proposed consolidation will achieve, to the maximum extent feasible, the Objectives and Standards set forth in sub-paragraph c. 1) below and makes the Findings required in sub-paragraph g of this Section 5.

1) Objectives and Standards

a) The coordinated development shall be designed to provide access improvements and reduce the number of curb cuts as well as improve signage, unify landscaping, and achieve a higher standard of site design than would be possible with separate development of the individual lots.

b) Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.

c) The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).

d. Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alteration up to a maximum FAR of 0.40. Such increase shall be granted only if the Board makes Findings required in sub-paragraph g. of this Section 5. A special permit, under this Section, is not required for a minor alteration which does not exceed a FAR of 0.32.

e. Areas Excluded from FAR Computation

The floor area of the following types of facilities shall *not* be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the HC or RC district:

1) Day care facilities licensed by the State Office for Children

2) Off-street parking facilities and associated ramps and aisles;

3) Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and van pooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.

4) Cafeterias for the primary use of the employees who work at the site.

f. Density on Parcels Where Portion Dedicated to Town or Commonwealth

Subject to the other provisions of this section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership of a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

g. Findings Required for a FAR Increase

In granting a FAR increase the Planning Board shall make a specific Finding, in writing, that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use, and in the case of new construction, that the increase shall not be substantially more detrimental to the neighborhood than the project at the Base FAR, and that all of the conditions set forth below are met. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features. It shall be the responsibility of the applicant to demonstrate conformance with the following standards as part of the request for a FAR increase.

1) The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.

2) The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the Base FAR.

3) The proposed development complies with all other applicable requirements set forth in the Town of Framingham Zoning Bylaw, including, when required, site plan review (Section VI.F) and/or off-street parking requirements in Section IV., thereof, subject to the following exceptions:

a) That such requirements are specifically superseded by these Highway Overlay Districts Regulations,

b) That the contribution for off-site improvements required by Section VI.F.6.(a) and VI.F.8.(c) shall be not less than three per cent (3%) of total development cost.

6. Open Space Requirements

a. Base Landscape Surface Ratio (LSR)

The base landscape surface ratio (LSR) shall be 0.20 for retail, consumer service and manufacturing uses, and 0.40 for office, research and development and other similar non-retail, nonresidential uses.

b. Increased LSR for Bonus Projects

For bonus projects, the minimum required landscape surface ratio shall be the sum of (1) the base LSR specified above for the applicable use, and (2) one-half of the difference between the proposed FAR and 0.32.

c. Multiple Use Projects

The minimum required LSR for multiple use developments shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

1) Non-bonus projects:
Minimum LSR= (Retail, service or manufacturing floor area percentage x 0.20)
+ (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)

2) Bonus projects:
Minimum LSR=[(Retail, service or manufacturing floor area percentage x 0.20)
+ (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)]
+ (one-half of the difference between the proposed FAR and 0.32)

d. Applicability

The requirements of this Section 6 shall apply to any new structure which requires ten or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten or more parking spaces.

7. Dimensional Regulations

a. Height:

1) Height limitations shall be as specified for the underlying zoning district(s).

2) The maximum height of new structures or altered structures where building height is increased, which are located adjacent to residential zoning districts shall be as follows:

DISTANCE FROM RESIDENTIAL DISTRICT	BUILDING HEIGHT
less than **50** feet	**30** feet
equal to or greater than **50** but less than **200** feet	**40** feet.
equal to or greater than **200** but less than **300** feet	**50** feet.
equal to or greater than **300** but less than **400** feet	**60** feet.
equal to or greater than **400** feet	**80** feet

b. Setbacks:

1) Minimum front setbacks shall be as specified for the underlying zoning district(s).

2) Structures shall be set back a minimum of fifteen feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified by subparagraph c., below.

c. Where Abutting Residential Districts

The minimum setbacks for structures located adjacent to residential districts shall be thirty feet.

8. Landscaping Requirements

a. General Purpose and Intent

The requirements and standards set forth in this Section 8 are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development. In the event the applicant desires to deviate from the specific standards set forth below, the Planning Board may approve alternative plans if it finds that such alternative is clearly more feasible and/or preferable and that the proposed arrangement meets the general purpose, intent, and objectives of this Section 8.

b. Objectives

In order to accomplish the General Purpose and Intent of these Highway Overlay Districts Regulations specific objectives shall be accomplished by landscape plans, which shall include the following:

1) Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.

2) Buffer strips adjoining or facing residential uses or residential zoning districts shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.

3) Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.

4) All required landscaping shall be located entirely within the bounds of the parcel.

5) To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

c. Applicability

The requirements of this Section 8 shall apply to any new structure which requires ten or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten or more parking spaces.

d. Technical Requirements

All off-street parking site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect unless waived in accordance with Section 10.b.

e. Occupancy Permits

1) No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty days shall have passed since the request was submitted to the Planning Board.

2) In cases where, because of seasonal conditions or other unforseeable circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon the approval of the Planning Board, under the following conditions:

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

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

f. Landscaped Buffer Strips

1) General Standards

In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and to avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein, and shall be continuous except for required vehicular access points and pedestrian circulation facilities. All required landscaping amenities shall be located within the bounds of the parcel. Signs shall be designed to be integrated into the landscaping.

2) Specific Standards

a) Depth

Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third of the distance between the street right-of-way and any building line, but shall not be less than fifteen feet in depth, and need not be greater than fifty feet in depth. Sidewalks may be considered in the calculation of the buffer depth. Landscaped buffer strips adjoining or facing residential districts or residential uses shall be a minimum of fifteen feet in depth.

b) Composition

The buffer strip shall include a combination of deciduous and/or evergreen trees and lower-level elements such as shrubs, hedges, grass, ground cover, fences, planted berms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

c) Arrangement

Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements. The following provisions set forth the form of arrangement of plantings. The form of plant arrangement is as follows:

1) At least one tree shall be provided per twenty-seven linear feet of street frontage or portion thereof. There shall be a minimum of three trees in the entire buffer strip. Trees may be evenly spaced or grouped. Groups of trees shall be spaced no further apart than fifty feet.

2) At least four shrubs shall be provided per one hundred square feet of landscaped area in the buffer strip.

d) Opaque Screens

An opaque screen may be comprised of walls, fences, berms, or evergreen plantings, or any combination thereof, providing that the Planning Board may require evergreen trees or shrubs instead of fences when deemed appropriate. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens as follows:

1) The screen shall be opaque from the ground to a height of between two and one-half to six feet when planted or installed as determined by the Planning Board.

2) Walls or fences exceeding four and one-half feet in height shall have plantings on the side facing the residential district, and may be required to have plantings on both sides.

3) Evergreen trees or shrubs shall be spaced not more than five feet on center.

4) The Planning Board may require ornamental or shade trees in addition to an opaque screen, planted in conformity with the standards set forth in Section 8.f.2) c) above, depending upon the type, size and proximity of adjoining residential uses.

e) Berms

When berms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

f) Mulches

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

g. Intersection Sight Distance Restrictions

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

h. Landscaping within Off-Street Parking Areas

1) Standards for Landscaping Within Parking Area**s:**

a) Parking areas shall be broken into sections not to exceed one hundred forty cars per section. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands".

b) Each landscaped island shall have a minimum area of one hundred fifty square feet and shall consist of pervious landscaping. Landscaped islands may be curbed or without curbing as follows: Curbing, at least five inches in height, shall surround each landscaped island as protection from vehicles. No tree shall be planted less than four feet from the curbing. Rain gardens shall be designed to meet LID standards and other applicable stormwater management Best Management Practices (BMP's) and may be designed without curbing where appropriate.

1) Divider Islands: The following additional design standards shall apply to divider islands:

(a) At least one landscaped divider island shall be provided for every four parallel rows of parking.

(b) Trees shall be spaced not more than twenty-seven feet on center.

(c) At least one shrub shall be provided for every five linear feet, or one shrub per thirty-five square feet of ground area, whichever results in a greater number of shrubs.

2) Terminal Islands: The following additional design standards apply to terminal islands:

(a) Terminal islands shall be used either (1) to separate parking spaces from driveways and other vehicular travel lanes, or (2) to break up large numbers of parking spaces in a single row of spaces.

(b) Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes. In addition, terminal islands shall separate groups of parking spaces in a row, such that no continuous line of adjoining spaces contains more than twenty-five parking spaces.

(c) As an alternative to separating groups of parking spaces with small internal terminal-islands, additional landscaped area may be provided. Such additional landscaped area shall be provided as additional depth in the buffer strip (above the minimum depth otherwise required in Section 8.b. above), terminal and divider islands adjacent to rows exceeding twenty-five spaces, and shall be provided at a ratio of at least 1.2:1.0. However, no more than thirty-five adjoining parking spaces may be provided in a row of spaces, regardless of the size of the landscaped islands at the ends of the row.

(d) Terminal islands shall contain at least two trees when abutting a double row of parking spaces.

(e) Landscaped terminal islands shall contain evergreen shrubs planted three feet or less on center, in order to prevent damage due to pedestrian traffic.

c) Grass or ground cover may be substituted for shrubs in divider islands and terminal islands with the approval of the Planning Board.

2) Increase of impervious areas: Notwithstanding the limitation on paved areas set forth elsewhere in Section 8.h.1)b), a landscaped island may be up to thirty-three per cent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas.

3) Use of porous paving materials: In order to minimize the amount of storm water runoff from paved areas, the use of porous paving materials is encouraged where feasible.

i. Landscaping Adjacent to Buildings

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

j. Standards for Plant Materials

1) All trees, shrubs and hedges must be species that are hardy in Plant Hardiness Zone 5, as defined by the American Standards for Nursery Stock and shall be resistant to salt spray and urban conditions where appropriate.

2) Plantings shall be selected and designed so as not to require high water use for maintenance.

3) Deciduous trees must be at least two and one-half to three inches caliper, six inches above the top of the root ball, at the time of planting; and must be expected to reach a height of at least twenty feet within ten years, when considering the expected normal growth patterns of the species.

4) Evergreen trees must be at least eight feet in height at the time of planting.

5) Ornamental or specimen trees must be at least eight feet in height at the time of planting.

6) Shrubs and hedges must be at least three and one-half feet in height or have a spread of at least twenty-four inches at the time of planting.

7) Shade or canopy trees shall be provided within parking lots, and within buffer strips.

k. Design for Pedestrian Circulation

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

2) Pedestrian Circulation in Parking Facilities

a) Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.

b) Pedestrian walkways shall be (i) integrated, to the extent possible, into the interior and/or perimeter landscaping of parking lots; (ii) constructed with a paved or similarly firm surface, at least six feet in width; and (iii) separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

l. Maintenance

1) The owner(s) and/or developer(s) of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

2) A permanent water supply system, sufficient in the Planning Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or re-used water, or wells, shall be used as the water source.

3) Maintenance bond: The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to one growing season following completion of planting.

m. Pervious Landscaping

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

9. Bonus Density Provisions

a. Eligibility for Bonus Floor Area

If a proposed improvement or facility in the Regional Center district complies with the standards set forth in Section 5.b. above, it shall be eligible for bonus floor area in accordance with the requirements set forth in paragraphs b through f of this Section 9.

b. Public Benefit Amenity

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

1) Parks

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

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet;
- be buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under Section8.f.

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

2) Pedestrian Circulation Improvement

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

a) Pathway (Off-Site)

A pathway shall be at least fifty feet from a vehicular circulation improvement for at least ninety per cent of its length.

b) Sidewalk (Off-Site)

A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.

c) Pedestrian Bridge/Tunnel

Bridges or tunnels should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge or tunnel shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

3) Service Roads

Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this Section 9.

c. Schedule of Bonuses

Bonus floor area shall be available in accordance with the bonus ratios listed in the following “Schedule of Bonuses”, up to the maximum FAR permitted in this Section 9 if the Planning Board deems that the amenity offered by the applicant accomplishes the objectives of this Section E. The bonus ratio is the ratio of (1) the unit of public benefit

amenity provided to (2) the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of "Square Foot" means that for each square foot of the amenity the project shall be eligible for three additional square feet of floor area for permitted uses.

SCHEDULE OF BONUSES

PUBLIC BENEFIT AMENITY	AMENITY UNIT	BONUS RATIO*
Open Space Amenities		
Park	Square foot	1:1
Excess Pervious Landscaping	Square foot	1:0.5
Pedestrian Circulation Improvements		
Off-Site Sidewalk	Square foot	1:1
Pathway/Bikeway	Square foot	1:1
Pedestrian Bridge/Tunnel	Square foot	1:1
Public Assembly Space	Square foot	1:5
Traffic Improvements		
Service Road (24-30 foot paved width)	Square foot	1:3
Transit Amenities		
Transit-related Lane Widening	Square foot	1:2
Public Transit Endowment	Dollar ($)	20:1

***Note: BONUS RATIO= Amenity: Floor Area**

d. State-Mandated Amenities

The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed in paragraph b above, only when the cost of such amenity exceeds 3% of the total cost of the project and if:

1) the provision of such amenity has been mandated as part of a State approval process; and,

2) the provision of the alternative improvement furthers the objectives of this Section 9; and,

3) the improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

e. Prospective Bonus Agreements

A project in the RC district, which proposes to provide a public benefit amenity but not to use the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a Special Permit and/or Site Plan Approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The maximum term of a PBA shall not exceed five years, following which the rights to any unused FAR increase shall become null and void. If, for any reason, a change of use of a parcel that has been approved for an FAR increase which is in whole or in part unused is proposed within the affective term of a PBA, the owner must obtain the approval of the Planning Board to take advantage of such remaining increase.

The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this Section 9. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of this Section, nor shall such approval be considered to represent the granting of site plan approval or special permit approval for any future development.

f. Continuing Obligation for Bonuses

1) Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.

2) An applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance, upkeep and provision of insurance for the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.

10. Administration

The review procedures set forth herein are intended to apply to the ***RC*** and ***HC*** districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedures and requirements are more restrictive than set forth in these Highway Overlay District Regulations.

The Planning Board shall be the SPGA for all special permits granted under these Highway Overlay District Regulations.

a. Thresholds for A Special Permit for Non-Bonus Projects

A development which requires site plan review and a special permit in conformance with the underlying zoning shall be required to conform with the additional requirements of these Highway Overlay Districts Regulations. No additional special permit or site plan review shall be required.

b. Thresholds for A Special Permit for Bonus Projects

1) An additional special permit is required for any proposed development which will exceed the base Floor Area Ratio (FAR) of 0.32, as described in Section 5, hereto.

2) Procedure:

a) When required, the procedures for site plan submission, review and approval shall be as set forth under Section VI.F. of this By-Law, except that the traffic impact standards of Section VI.F.6.(a) and VI.F.8.(c) including the requirements for off-site traffic improvements, are superseded by the provisions of Section 3.d.3) and 5.b. herein. In the event that multiple special permits are required either by these Highway Overlay District Regulations or by these Regulations and the Underlying Regulations, the review process employed shall occur simultaneously, with a separate vote recorded for each, to minimize, to the greatest feasible extent, the decision-making time period.

b) The calculation of a major or minor alteration shall be determined by the Building Commissioner.

c. Modifications and Waivers

The Planning Board may modify and/or waive strict compliance with one or more of the standards, regulations and objectives set forth in these Highway Overlay District Regulations in accordance with the following procedures.

1) Findings Required for a Waiver: The Planning Board shall make a specific Finding, in writing, that a waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features; and whether the objectives of these Highway Overlay Districts Regulations are achieved.

2) Performance Standards for Waivers: The applicant will be required to demonstrate that the waiver, if granted, will accomplish the following design and performance objectives, as are applicable:

a) Landscaped buffer strips which create a strong impression of separation between developed areas and adjacent streets and/or residential areas.

b) Landscaped parking areas and landscaped areas adjacent to buildings to provide shade and visual relief from large expanses of impervious surfaces.

c) Improved pedestrian circulation within the subject site and, where possible, create pedestrian access to adjoining sites.

d) Maintenance of all landscaped spaces and buffer areas.

e) Improved vehicular access, reduced curb cuts for access drives, improved on-site circulation.

f) Improved building architecture and facade to achieve compatibility and harmony with the surrounding neighborhood.

g) Improved site signage.

d. Mutual Review

It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district as described below: Review and comment by the Planning Board of the Town of Natick is specifically

encouraged. In its review of a site plan, the Planning Board shall consider any comments submitted by the Planning Board of the Town of Natick.

1) If the size of the proposed structure is equal to or greater than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick and shall meet with the Planning Board of Natick to describe the project, if requested by the Natick Planning Board.

2) If the size of proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick. The Planning Board of Natick shall be notified of the dates of all public hearings regarding the project.

F. COMMERCIAL GROUND-MOUNTED SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS OVERLAY DISTRICT

1. Purpose and Intent

The purpose of this bylaw is to provide a permitting process and standards for the creation of new Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations. This By-law provides standards for the placement, design, construction, operation, monitoring, modification and removal of such installations; while protecting public safety, protecting against undesirable impacts on residential property and neighborhoods, protecting scenic, natural and historic resources and protecting and/or providing for wildlife corridors. Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall not diminish abutting property values and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation and/or repair of Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations.

2. Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinance or by-laws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector.
Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning by-laws, including those governing commercial ground-mounted large-scale solar photovoltaic installations.
Commercial Ground-Mounted Solar Photovoltaic Installations: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250kW DC.
Designated Locations: The locations designated by the Town of Framingham, in accordance with Massachusetts General Laws Chapter 40A, Section 5, where Commercial Ground-Mounted Solar Photovoltaic Installations may be sited as-of-right. Said locations are shown on the Framingham Zoning Map pursuant to Massachusetts General Laws Chapter 40A, Section 4. This map is hereby made a part of this Zoning By-law and is on file in the Office of the Town Clerk.
Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

3. Applicability

No Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations shall be erected or installed except in compliance with the provision of this Section and other applicable Sections of the Zoning By-law, as well as state and federal law. Such use shall not create a nuisance by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisance as determined by the Site Plan Review Approval Granting Authority. The Planning Board will serve as the Site Plan Review Approval Granting Authority herein.

The Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations is an overlay district that may be superimposed by a vote of any Annual or Special Town Meeting on a parcel or parcels of land. Designating land that requires significant tree cutting is discouraged. Land in industrial or commercial zoning districts, or vacant, disturbed land is encouraged for designation.

The construction and use of a Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations with 250 kW or larger of rated nameplate capacity within any overlay zoning district designated by a vote of Annual or Special Town Meeting as set forth in the immediately preceding paragraph of this section shall be As-of-Right Siting and shall undergo Site Plan Review Approval by the Planning Board prior to construction, installation or modification as provided in this section.

4. General Requirements

A Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation may be permitted on a lot which contains a contiguous area of not less than four acres and meets the setbacks and maximum lot coverage under Any Other Principal Use of the Table of Dimensional Regulations Section IV.E.2.

a. Visual Impact

The visual impact of the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation, including all accessory structures and appurtenances shall be mitigated. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered to avoid adverse visual impacts as deemed necessary by and in the sole opinion of the Site Plan Review Approval Granting Authority. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.

b. Compliance with Laws, Ordinances and Regulations

The construction and operation of Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations shall be consistent with all applicable local regulations and by-laws, and state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall be constructed in accordance with the State Building Code and approved by the Building Commissioner.

c. Utility Notification

No Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall be constructed until evidence has been given to the Site Plan Review Approval Granting Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the owner or operator's intent to install an interconnected customer-owned generator. Proof of a fully executed mutual agreement with the utility company shall be provided to the Site Plan Review Approval Granting Authority. Off-grid systems shall be exempt from this requirement. If the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation goes on grid, it shall be required to immediately comply with this requirement, and proof of such compliance shall be provided to the Site Plan Review Approval Granting Authority within seven days.

d. Maintenance

The Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief, Police Chief and Public Works Director and Site Plan Review Approval Granting Authority. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless said access road(s) is/are accepted as a public way(s).

e. Emergency Services

The Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation owner or operator shall provide a copy of the project summary, electrical schematic, and the Approved Site Plan to the Fire Chief. The owner or operator shall provide an emergency response plan to the Site Plan Review Approval Granting Authority, Fire Department, Police Department, and Public Works Department. The emergency response plan is subject to the

review and approval of the Site Plan Review Approval Granting Authority, Fire Department, Police Department and Public Works Department, and shall include at a minimum, explicit instructions on all means of shutting down the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation, which shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation and immediately notify the aforementioned parties of any change to the responsible person and/or his/her contact information.

f. Safety and Security

Safety and measures of security shall be subject to the approval of the Site Plan Review Granting Authority, Fire Department, Police Department and Public Works Department. The owner or operator shall be required to provide emergency services with training on all equipment and procedures referenced in the emergency response plan or which might otherwise be necessary for emergency services to operate or perform.

The owner or operator shall be required to provide a Knox Box (a secure, tamper-proof storage box for keys or other access tools) at each locked entrance to the facility and maintain a complete set of all keys or devices required to gain emergency access to all areas, buildings and equipment of the facility in each Knox Box.

g. Design Standards

(1) Lighting

Lighting of the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation, including all ancillary structures and appurtenances shall not be permitted unless required by the Site Plan Review Approval Granting Authority, Site Plan Review Approval Decision or State Building Code. Where used, lighting shall be so arranged as to direct the light away from any street and from any premises residentially used or zoned. Such exterior lights shall be mounted and shielded, such that light sources and lenses shall not be visible from any residential district. Luminaries shall be cutoff (down light type), with mounting height not to exceed twenty feet. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises.

(2) Utility Connections

All utility connections from the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations shall be underground unless specifically permitted otherwise by the Site Plan Review Approval Decision. Electrical transformers, inverters, switchgear and metering equipment to enable utility interconnections may be above ground if required by the utility provider.

(3) Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation and trees shall be limited to that which is necessary for the construction, operation and maintenance of the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation or otherwise prescribed by applicable laws, regulations and by-laws and meet the soil erosion habitat impacts as required under the Solar Regulations.

(4) Structures and Panels

All structures and panels and all associated equipment and fencing including Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall be subject to all applicable By-laws and regulations concerning the bulk and height of structures, lot area setbacks, open space, parking and building and lot coverage requirements and may not exceed 50% of the total lot area.

(5) Modifications

All material modifications to a Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation made after issuance of the Site Plan Review Approval Decision shall require modification to the Site Plan Review Approval Decision.

h. Abandonment and Removal

(1) Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall be considered abandoned when it fails to operate for more than one year without having obtained the Site Plan Review Approval Granting Authority's written consent to so

suspend operation. If the owner or operator of the Commercial Solar- Photovoltaic Renewable Energy Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning the town may enter the property and physically remove the installation.

(2) Removal Requirements
Any Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation, which has reached the end of its useful life or has been abandoned, shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Site Plan Review Approval Granting Authority by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

i. Physical removal of all Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations, structures, equipment, security barriers and transmission lines from the site.

ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Approval Granting Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

i. Financial Security

Proponents of Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation projects shall provide a non-cancellable surety bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the town must remove the installation and remediate the landscape. The amount and form of the surety bond or other form of surety shall be determined by the Site Plan Review Approval Granting Authority, but in no event shall exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Site Plan Review Approval Granting Authority. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Before issuance of any building permits for the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation, such construction and installation shall be secured in accordance with this by-law and/or any regulations adopted pursuant to the Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation By-law for this purpose.

IV. DIMENSIONAL REGULATIONS

A. General Parking Regulations

l. Basic Requirement:

It is the intention of this By-Law that all structures be provided with sufficient off-street parking space to meet the needs of persons employed at or making use of such structures; to ensure that any use of land involving the arrival, departure, or storage of motor vehicles on such land be so designed as to reduce hazards to pedestrians and abutters caused by the noise, fumes, and headlight glare of automobiles parking off the street; to reduce congestion in the streets and contribute to traffic safety by assuring adequate space for parking of motor vehicles off the street; and to provide necessary off-street loading space for all structures requiring the large-volume delivery of goods. No building permit or certificate of occupancy for (a) a new structure, or (b) a change in use, or (c) substantial alteration or substantial improvement of an existing structure shall be approved by the Building Commissioner unless off-street parking and loading facilities have been laid out and approved in accordance with the requirements set forth in this section.

2. Applicability

The regulations of this Article shall not apply to parking or loading facilities in existence or for which building permits have been issued before the first publication of notice of the public hearing on this By-Law, provided such facilities conformed with all applicable regulations in effect when established and provided the use of the structure served by the parking facility does not change. Any parking or loading facility accessory to a new or substantially altered or substantially improved structure, or accessory to a new use of an existing structure, or the new construction or expansion of a parking or loading facility shall be subject to the requirements of Section IV. The Planning Board shall be the SPGA for all special permits specified under Section IV.B. Off-Street Parking.

3. Reduction of Existing Spaces

Off-street parking and loading facilities provided in connection with an existing use on the effective date of this By-Law, or provided in accordance with this By-Law subsequent to such date, shall not be reduced in total extent after their provision, except when such reduction is in accordance with the requirements of this Section.

4. Conformance with Use Regulations

a. Means of Access

Access through a residential zone to non-residential zones shall be prohibited except by a public way.

b. Parking Facility

No land area shall be used for an off-street parking or loading facility which is accessory to a use or structure prohibited in the district in which the off-street parking or loading facility would be located.

B. Off-Street Parking

1. Number of Spaces Required

a. Table of Off-Street Parking Regulations

Off-street parking facilities shall be provided for each type of use in accordance with the following table:

Table Of Off-Street Parking Regulations

Principal Use	Minimum Number Of Parking Spaces[i]
1. Single-family Dwelling	**2** per dwelling unit
2. Two-Family and Multi Family Dwellings	**2** per dwelling unit; **or** **1** per bedroom, whichever is greater

[i] When used to calculate the number of parking spaces required, occupants means design occupancy load as determined by the State Building Code and the number of employees shall be construed as the maximum number of persons employed on the premises at any one time.

3. Multifamily dwelling for the elderly; Congregate Housing	**1** per dwelling unit; **plus** **1** space for visitor parking per ten spaces of required resident parking
4. Lodging House; Hotel or Motel	**1.25** per unit; **plus** **1** per two employees
5. Golf Course or Country Club	**50** per nine holes; **plus** 1/2 the requirements for restaurant, club or recreation facility specified below
6. Entertainment, amusement or recreation facility[ii] except theatre; Healthclub	**1** per three occupants, **or**, in the case of a non-structural facility, **1** per three persons the facility is intended to accommodate
7. School or day care facility[iii]	**1** per four occupants; **plus** **1** per two employees
8. Group residence	**1** per three occupants
9. Restaurants, clubs, theaters and other similar places of assembly; Cultural and Educational Centers	**1** per three occupants; **plus** **1** per two employees
10. Fast Order Food Establishments	**1** per two occupants; **plus** **1** per two employees
11. Nursing Home or other Residential Care Facility; Assisted Living Housing	**1** per four occupants; **plus** **1** per two employees
12. Hospital; Geriatric Hospital; Nursing Care Facilities	**1** per 750 s.f. of gross floor area
13 Church, Library, Museum or similar place of assembly	**1** per eight occupants; **plus** **1** per two employees
14. Offices of a physician, veterinarian, chiropractor, or similar medical practitioner; or clinic	**1** per 150 s.f of gross floor area; **or** **3** per medical practitioner, whichever is greater
15. Non-Medical Offices	**1** per 250 s.f. or gross floor area **or** **1** per two employees, whichever is greater
16. Bank	**1** per 175 s.f. of gross floor area; **plus** **1** per 250 s.f. of gross floor area for areas not devoted to customer service
17. Commercial greenhouse, funeral home	**1** per 50 s.f. of public floor area; **plus** **1** per two employees
18. Barber shop or beauty parlor	**3** per operator's station
19. Other personal, consumer and retail services	**1** per 200 s.f. of gross floor area; **plus** **1** per employee
20. Regional Shopping Center (a center with at least 500,000 s.f. of gross leasable area	**1** per 200 s.f. of gross leasable area
21. Auto repair or other workshop; sales or rental of motor vehicles	**1** per 400 s.f. of gross floor area; **plus** **1** per employee
22. Gasoline service station	**3** per service bay; **plus** **1** per employee

23. Other business, institutional or professional uses not specified	As determined by the Planning Board, but not less than: **1** per 200 s.f. of gross floor area; **plus** **1** per two employees
24. Wholesale or non-retail business; warehouse or other storage facility	**1** per 1,200 s.f. of gross floor area; **or** **1** per employee, whichever is greater
25. R&D establishment, manufacturing, industrial services, or extractive industry	**1** per 800 s.f. of gross floor area; **or** **1** per employee, whichever is greater
26. Other industrial and transportation uses not specified	As determined by the Planning Board, but not less than: **1** per 250 s.f. of gross floor area
27. Carwash	**1** per employee

ACCESSORY USES	MINIMUM NUMBER OF PARKING SPACES[iv]

[ii] Any such facility intended primarily for children under driving age may provide only one-half the specified requirement.

[iii] See footnote #2.

[iv] See footnote #1.

28. Renting rooms or taking boarders in single family dwellings	**1** per room offered for rent
29. Dormitory[v]	**1** per bed
30. Home occupation or home office	**1** per room used for office, or occupation space; **plus** **1** per non-resident employee; **plus** **1** per dwelling unit

b. Common Parking Areas and Multiple Use Facilities

(1) Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually.

(2) For the purpose of determining parking requirements, a facility which contains more than one use may be broken down into its constituent use components, with each use component treated as a principal use. The determination of how a multiple use facility shall be broken down into its constituent components shall be made by the Planning Board.

c. Reduction in Required Number of Parking Spaces

The number of required parking spaces in a facility may be reduced by special permit, in accordance with the requirements of Section VI.E. of this By-Law, if the SPGA determines that the reduced number will provide adequately for all uses served by the facility.

d. Fractional Numbers

Where the computation of the number of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

2. Location of Facilities

a. Proximity to Principal Use

Required off-street parking facilities shall be provided on the same lot or premises as the principal use they are intended to serve, or on a lot in the same ownership adjacent to such use. When practical difficulties, as determined by the SPGA, preclude their establishment on such lot or premises, the SPGA may, by special permit, following a public hearing, allow the establishment of such facilities on another lot. Where such facilities are not owned by the applicant, the applicant shall provide executed instruments establishing to the satisfaction of the SPGA that sufficient legal interest has been acquired in such premises to assure their availability for required parking as long as the use served is in existence.

b. Parking in Required Setbacks

In districts requiring a front setback, no unenclosed parking area shall be allowed within ten feet of a front lot line except on a residential driveway. In districts where no front setback is required, parking areas shall be set back at least five feet from the front lot line. Parking in an enclosed structure shall not be allowed in a required front setback but, for a structure less than 12 feet in height, may extend into a side setback from the buildable portion of the lot up to one-half the required side setback depth. Parking areas, except those associated with single family dwellings in residential districts, shall be set back at least five feet from the side lot lines in all districts. A setback is the specified distance from a front or side lot line within which erection of buildings or structures is prohibited, except as permitted elsewhere in this By-Law.

c. Setback from Building

No parking space shall be located within five feet of a building.

d. Stalls for Oversize Vehicles

In cases where the parking of vans, buses, or other vehicles exceeding 8 feet in width and 18 feet in length is anticipated in connection with a proposed use, stalls for the parking of such vehicles shall be of such dimensions as to accommodate the specified type of vehicle.

[v] See footnote #2.

e. Parking on Rights-of-Way

No parking area or aisles shall be laid out on land which is reserved as a vehicular right-of-way, whether developed or undeveloped and whether public or private.

3. Design Standards

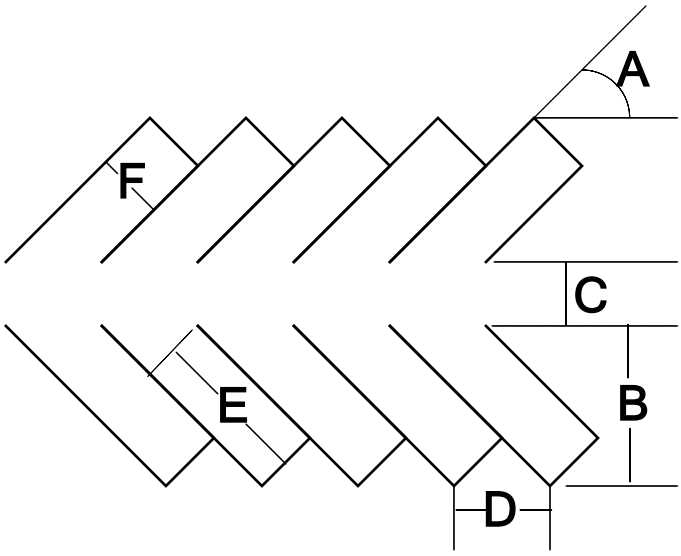
All parking facilities shall comply with the following design standards:

a. Dimensions of Stalls and Aisles

The minimum dimensions of stalls and aisles shall be as follows:

Refer to Parking Table, below, for corresponding Dimensions

A = Parking angle
B = Distance from stall to curb
C = Aisle width
D = Curb length per car
E = Stall depth
F = Stall width



PARKING TABLE

(linear measures in feet; angular measures in degrees; see notes at end of table for explanation of symbols)

A	B	C[6]	D	E	F[7]
Parallel	9.0	12.0	-	24.0	9.0
30	16.4	12.0	18.0	18.0	9.0
45	18.8	14.0	12.7	18.0	9.0
60	19.9	18.0	10.4	18.0	9.0
70	19.9	19.0	9.6	18.0	9.0
80	19.2	24.0	9.1	18.0	9.0
90	18.0	24.0	9.0	18.0	9.0

b. Vehicular and Pedestrian Circulation

Pedestrian walkways, driveways, and parking areas shall be designed with respect to topography, integration with surrounding streets and pedestrian ways, number of access points to streets, general interior circulation, adequate width of drives, and separation of pedestrian and vehicular traffic so as to reduce hazards to pedestrians and motorists.

c. Stall Layout

Required parking facilities shall be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. The Planning Board may waive such requirement for parking facilities under full-time attendant supervision. In no case shall stalls be so located as to require the backing or maneuvering on to the sidewalk or into a public or private way upon entering or leaving the stall.

d. Entrance and Exit Driveway

For facilities containing fewer than five stalls, the minimum width of entrance and exit drives shall be 12 feet for one-way use and 18 feet for two-way use, and the maximum width 20 feet. Single family dwellings shall have a minimum driveway entrance of 12 feet. For facilities containing five or more stalls, such drives shall be a minimum of 12 feet wide for one-way use and 20 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the street line shall be 24 feet in Residential Districts and 30 feet in all other districts. The Planning Board may modify such width and radius limitations when a greater width would facilitate traffic flow and safety. All such driveways shall be located and designed so as to minimize conflict with traffic on public streets and provide good visibility and sight distances for the clear observation of approaching pedestrian and vehicular traffic. No portion of an entrance or exit driveway at the street line shall be closer than 25 feet from an intersection in a Residential District, or 35 feet from an intersection in any other District. Distance shall be measured from the edge of the driveway to the extension of the nearest street line of the intersecting street. In the case of a state highway, no Building Permit shall be issued until a State Entrance Permit has been issued for the current use.

e. Parking Areas: Surfacing, Drainage, and Curbing

Parking areas shall be graded, surfaced with asphalt, concrete, or other suitable non-erosive material, and drained in a manner deemed adequate by the Planning Board to prevent nuisance of erosion or excessive water flow across public ways or abutting properties, and natural drainage courses shall be utilized insofar as possible. Design standards and specifications shall be those of Section VII.C. of the Rules and Regulations governing the subdivision of land in the Town of Framingham. Stalls shall be clearly marked to indicate the spaces to be occupied by each motor vehicle, in accordance with the dimensions specified in (a) above. Curbing, with the addition of guard rails wherever deemed necessary by the Planning Board, shall be placed at the edges of surfaced areas, except driveways, in order to protect landscaped areas and to prevent the parking of vehicles within required setback areas. Entrance and exit driveways shall be clearly defined by curb cuts, signs, and striping. All curbing installed within the public way of such driveways shall be of granite.

[6] Providing access to stall for one-way use only. For two-way use, the minimum width shall be 20 feet or the aisle width required in column C above, whichever is greater.

[7] End stalls restricted on one or both sides by curbs, walls, fences, or other obstructions shall have a minimum width of ten feet, and maneuvering space at the aisle end of at least five feet in depth and nine feet in width.

f. Lighting

Lighting shall not be directed or focused such as to cause direct light from the luminaire to be cast toward buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways. The luminaire shall be redirected, shielded, or its light output controlled as necessary to eliminate such conditions. There shall be no light trespass by a luminaire beyond the property boundaries of the lot on which it is located. Further, lighting shall be designed to complement the character of the Town or neighborhood.

1. Wall Mounted Fixture - The Planning Board may permit a wall mounted fixture attached to the exterior of a building or structure for area lighting at a maximum mounting height of fifteen feet above the finished grade if the Planning Board determines such action is in the public interest. A Wall Mounted Fixture shall be shielded to control glare.

2. Pole Mounted Fixture - The Planning Board may permit a pole mounted fixture height up to twenty-five feet above the finished grade if the Planning Board determines such action is in the public interest. All bases shall be flush with the ground and located in landscaped areas setback a minimum of three feet from the curbline. The Planning Board may permit lamp(s) of up to 1200 watts per pole mounted fixture and up to four pole mounted fixtures per luminaire if the Planning Board determines such action is in the public interest.

3. Ceiling Mounted Fixture - A luminaire mounted on an exterior ceiling such as under a canopy shall be mounted with the refractor or lens flush with or recessed in the ceiling or fixture.

4. Security Lighting - Low-level lighting sufficient for the security of persons or property on the lot is permissible, provided the average illumination on the ground or on any vertical surface is not greater than one half (.5) footcandle.

Based upon the nature of the application the Planning Board may impose reasonable requirements or limitations to minimize the impacts on abutting properties or uses. The Planning Board reserves the right to limit and regulate the amount and timing of illumination on a project site.

g. Special Permit for Dimensional Relief to Off-Street Parking Design Standards

A special permit may be granted by the SPGA to alter the Design Standards for parking facilities as set forth under Section IV.B. 2., 3. and 4. Any space saved under a special permit for Dimensional Relief to Off Street Parking Design Standards shall be used for landscaped open space in addition to that required in the Zoning By-Law.

h. Handicapped Parking

Parking facilities shall provide specially designated parking stalls for the physically handicapped in accordance with the Rules and Regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts Department of Public Safety or any agency superseding such agency. Handicapped stalls shall be clearly identified by a sign stating that such stalls are reserved for physically handicapped persons. Said stalls shall be located in that portion of the parking facility nearest the entrance to the use or structure which the parking facility serves. Adequate access for the handicapped from the parking facility to the structure shall be provided.

4. Landscaped Open Space in Parking Facility

a. Standards for landscaping within parking areas shall be as provided in Section III.E.8.h

Site constraints shall be considered in applying the standards of Section III.E.8, which may be waived in accordance with Section III.E.10.c. Developments exempt from site plan review are encouraged to meet these standards.

b. Perimeter Landscaped Open Space

The required setback from lot lines specified for parking areas in Section IV.B.2.(b) shall consist entirely of landscaped open space.

c. Tree Requirement

Landscaping in off street parking areas with four parking spaces or fewer shall include at least two trees. Such trees shall be in accordance with Section III.E.8.j. Standards for Plant Materials.

d. Protection From Damage

In order to preserve landscaped open space from damage by parking cars and snow removal operations, bumper overhang areas shall be provided with permeable ground cover that will not be damaged by bumpers or vehicle drippings and all landscaped open space shall be provided with suitable curbing.

e. Waiver

The Planning Board, with respect to existing parking lots and landscaped islands, may waive the provisions of Section IV.B.4.a., b., c., and d. if the Board determines that literal compliance is impracticable and the existing landscaped islands are consistent with the purpose of this By-Law.

5. Maintenance of Parking Areas

No required parking facility shall be used for servicing, repair, storage, or display of merchandise or vehicles for sale or rental or for any other purpose that interferes with its availability for required parking.

Parking facilities and required screens and landscaping shall be continuously maintained in good condition and appearance. Whenever necessary, surfacing, lighting, barriers, markings, and planting materials shall be repaired or replaced with new materials to insure continued compliance with provisions of this By-law. Failure to maintain the same shall be considered a violation of this By-Law and shall be subject to the enforcement procedures contained in Section VI herein.

6. Applicability for Parking Structures and Small Facilities

Parking facilities provided in an enclosed structure shall be subject to the provisions of this Section, except for Sections IV.B.2.(c) and IV.B.4. Unenclosed parking facilities beneath a structure shall be subject to the provisions of this Section, except for Sections IV.B.2.(c), and such parking level shall be deemed to be a story when its ceiling is four feet six inches or more above finished grade. Any residential parking facility containing fewer than five stalls shall not be subject to Section IV.B.2(c), IV.B.3(c), and IV.B.4.

7. Special Provisions for Central Business District and Neighborhood Business District

a. Purpose

The purpose of this section is to further the intent of the Central Business (CB) district, which is to preserve the area as the Town's financial, civic, and government center, and to promote general and special retail uses in a compact area, and to further the intent of the Neighborhood Business District (B-1), which is to reinforce the historic development pattern of the Town’s traditional commercial centers.

b. Exemptions

1. Exemption by Downtown Parking Relief Permit

In the Central Business District, a downtown parking relief permit may be granted by the Building Commissioner when an existing building is proposed for reuse, in order to provide parking regulation relief from the minimum number of spaces required in Section IV.B.1.(a) herein, and from the proximity requirements specified in Section IV.B.2.(a) herein. Such downtown parking relief permit may be obtained, following application to the Building Commissioner, only under the following circumstances: (1) the floor area of the building to be reused has not been increased; (2) the proposed reuse occupies less than 8,000 square feet of floor area; (3) the proposed reuse results in the requirement for no more than ten parking spaces above the number of spaces required under this By-Law prior to the proposed reuse; (4) no physical alteration to an existing parking lot or facility is proposed; and (5) the proposed reuse is not subject to Section VI.F. Site Plan Review under the Planning Board. Decisions under this subsection by the Building Commissioner may be appealed to the Planning Board via an application for a special permit, as provided below. All other requests for parking relief from the required number of parking spaces and parking proximity requirements in the Central Business District shall be by special permit as provided below.

2. Exemption by Special Permit

In the Central Business district and Neighborhood Business District a special permit may be granted to exempt parking facilities from the minimum number of spaces required in Section IV.B.1(a) herein, and from the proximity requirements specified in Section IV.B.2(a) herein. The Planning Board shall be the SPGA for special permits under this section.

c. Contents of Application

1. An application for a special permit under this section shall include a Parking Plan including all information specified in Section VI.F.5, paragraph 1. herein, regardless of the number of parking spaces proposed to be provided; or, if the proposed development is subject to the Site Plan Review provisions of this By-Law under Section VI.F.2.b. or 2.c, an application for Site Plan Review containing all information specified in Section VI.F.5.

2. Where off-street parking facilities are to be provided upon private premises not owned by the applicant, an application for a special permit under this section shall also include executed instruments establishing to the satisfaction of Town Counsel that the applicant has sufficient legal interest in such premises to assure their permanent availability for off-street parking in connection with the proposed use.

d. Procedure for Special Permit

1. The procedure for application, review, hearing, and decision shall be in accordance with the procedure for all special permits as set forth in this By-Law.

2. The public notice and hearing process required for the special permit application shall be concurrent with the Planning Board's Site Plan Review, if applicable. In the case of a proposed development subject to Site Plan Review, the Planning Board shall hold a combined public hearing for both the special permit and the site plan review application.

e. Conditions for Approval of Special Permit

The SPGA shall not approve an application for a special permit under this section unless it finds that in its judgment all of the following conditions are met:

1. The exemptions requested are consistent with the conditions for all special permits specified in Section VI.E.3.(a) of this By-Law.

2. There are adequate parking facilities of reasonable proximity to the premises.

f. Effect of Special Permit

A special permit granted under this section shall constitute the granting of an exemption from the minimum number of spaces requirement, or the proximity requirement, or both; and shall be deemed to be based on a specific plan or application for Site Plan Review, as applicable. Subsequent amendments to the approved plan or Site Plan Approval require amendment of the special permit.

C. OFF-STREET LOADING

1. Applicability

The requirements of this section shall apply to individual users of new and substantially altered structures, provided that when a building existing on the effective date of this By-Law is altered or expanded so as to increase the gross floor area by at least 5,000 square feet, only the additional gross floor area shall be counted toward the off-street loading requirements.

2. Table of Off-Street Loading Regulations

Principal Use	First loading facility required for area shown below	One additional loading facility required for area shown below
Institutional Uses		
Dormitory and Hotel or Motel		

Recreation and Entertainment Uses	10,000	50,000
Restaurant and Fast Food		
Office Uses	15,000	50,000
Retail Services	5,000	20,000
Personal and Consumer Services	5,000	25,000
Vehicular Services		
Industrial Uses		
Wholesale and Storage Uses	10,000	25,000

3. Location and Design

Off-street loading facilities shall be located and designed in the following manner:

a. Loading Bays

Each required loading space shall be at least 12 feet wide and 25 feet long, exclusive of drives and maneuvering space, and shall be located entirely on the lot being served. All lighting, surfacing, drainage, and maintenance of loading facilities shall be provided in the same manner as off-street parking facilities, as specified in Section IV.B.3 (e) and (f), and Section IV.B.5. Loading bays shall be enclosed in a structure if located within 50 ft. of a Residential District and if the use served by such bay(s) involves regular night operations, such as a restaurant, bakery, hotel, bottling plants, or similar use.

b. Exemption by Special Permit

The Planning Board may modify by special permit the provisions of this section if said Board determines that literal compliance is impracticable due to the nature of the use or the location, dimensions, or grade of the lot.

D. Service Stations And Outdoor Auto Sales

Gasoline service stations and outdoor automobile rental or sale, and storage for rental or sale shall be designed according to the following standards:

1. Location and Width of Driveways

No portion of a driveway at the street line shall be closer than 10 feet from a side lot line or 20 feet from any portion of another driveway on the same lot. The maximum width of driveways at the lot line shall be 30 feet and the minimum width, 20 feet. The minimum curb radius shall be 15 feet.

2. Dimensional and Landscaping Regulations

Such facilities shall be required to provide year-round opaque screening; comprised of walls, fences, berms, or evergreen plantings; where such facilities abut residential districts or residential uses. In the case of outdoor automobile rental or sale, and storage for rental or sale, such outdoor facilities shall also be subject to the landscaping requirements for parking facilities, as specified in Section IV.B.4.

3. Curbing, Surfacing, and Lighting

A raised curb at least 6 inches high shall be constructed along all lot lines abutting a street except at driveway openings. The area of the lot not landscaped or occupied by structures shall be graded, surfaced with asphalt or other suitable material and drained in a manner deemed adequate by the Planning Board to prevent nuisances or erosion or excessive water flows onto any other property or street. All illumination on outdoor areas and sales lots shall be shielded so as to prevent direct glare onto any other property or street.

4. Access and Circulation

Gasoline Service Stations (with or without an allowed accessory use) shall have adequate access, circulation, and vehicle storage for queues, which will not conflict with other uses. Gasoline service stations (with or without an allowed accessory use) may not gain their access through a parking lot serving another separate use. Access and circulation for a gasoline service station (with or without an allowed accessory use) must be clearly defined and separated from off-street parking areas serving other uses, so that there will not be a circulation conflict.

E. DIMENSIONAL REGULATIONS

1. General Requirement

No division of land shall be made which results in the creation of any lot having dimensions smaller than the minimum required by this Section for the building or use located thereon within the district in which such lot is located.

2. Table of Dimensional Regulations

Minimum lot area, frontage, lot width, setbacks and open space, and maximum height, lot coverage and floor area shall be as specified in the following table of Dimensional Regulations, subject to the further provisions of this Section:

District	Principal Building or Use	Lot Minimum		Minimum Setback		Minimum Landscaped Open Space Surface Ratio	Building Maximums		
		Area (s.f.)	Frontage (ft.)	Front+ (ft.)	Side (ft.)		Height	Lot Coverage	Floor Area Ratio
Single Residence **R-4**	One-family or two-family detached dwellings	43,560	100	30 or more	30	50%	3/35	15%	-
	Any other principal use	43,560	150	30 or more	30	50%	3/35	15%	-
R-3	One-family or two-family detached dwellings	20,000	100	30 or more	15	40%	3/35	25%	-
	Any other principal use	43,560	150	30 or more	30	50%	3/35	15%	-
R-2	One-family or two-family detached dwelling	12,000	65	30 or more	12	35%	3/35	30%	-
	Any other principal use	43,560	150	30 or more	30	50%	3/35	15%	-
R-1	One-family or two-family detached dwelling	8,000	65	30 or more	10	30%	3/35	35%	-
	Any other principal use	43,560	150	30 or more	30	50%	3/35	15%	-
General Residence **G**	One-family or two-family detached dwelling	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal use	43,560	150	30 or more	30	50%	3/40	15%	-
Neighborhood Bus **B-1**	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal use	4,000	-	**	-	5%*******	3/40	33%	-
Community Bus **B-2**	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal use	8,000	65	25	15	20%	3/40	-	0.32
General Bus **B-3**	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal use	8,000	65	25	15	20%	3/40	-	0.32
General Bus **B-4**	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal use	10,000	65	25	15	20%	6/80	-	0.32
Business **B**	Any non-residential use	6,000	50	25	15	20%	6/80	-	0.32
	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
Central Business **CB**	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
	Any other principal or mixed use	-	-	10**	-	5%***	6/80	60%	2.0
Office/Professional **P**	Residential structure	8,000	65	30 or more	15	30%	3/40	35%	
	Any other principal use	6,000	50	30 or more	15	20%	3/40	20%	0.32
Planned Re-use **PR**	One-family or two-family detached dwellings	20,000	100	30 or more	15	40%	3/40	25%	-
	Other uses permissible in Single Res. Districts	43,560	150	30 or more	30	50%	3/40	25%	-
Light Manufacturing **M-1**	Any non-residential use	6,000	50	50	15	20%	6/80	-	0.32
	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
General Manufacturing **M**	Any non-residential use	6,000	50	50	15	20%	6/80	-	0.32
	Any residential use	8,000	65	30 or more	10	30%	3/40	35%	-
Open Space/ Recreation **OSR**	Golf course or country club	50 ac.	200	100	100	90%	3/40	5%	-
	Any other principal use	5 ac.	200	100	100	80%	3/40	10%	-

Geriatric/Elderly **G/E**[#]	Any Principal Use	3.5 ac.	200	20	15	-	3/40		0.32
Technology Park **TP**[$]	Any Principal Use	43,560	100	30	15	-	6/100	_	_

[+] Where shown as "30 or more" the minimum front setback shall be 30 feet from the sideline of a street over 40 feet in width, and 50 feet from the center line of a street 40 feet or less in width.

[**] Minimum front setback as regulated, except where building lines have already been established in which case building lines must be maintained; to be used for landscaping, pedestrian and vehicular access. Additional uses within the front setback in the CBD are listed under Section IV.E.11.a., herein. No parking in the front setback.

[***] A portion of this requirement may be provided in the public right of way (street trees, etc.)

[#] See §IV.E.10 for additional Dimensional Regulations for Geriatric Care/Elderly Housing District Uses, including regulations on setback requirements, floor area ratio calculations, and minimum landscape open space requirements within this district.

[$] See §II.F.5 and II.F.7 for additional Dimensional Regulations for Technology Park District uses, including floor area ratio regulations and minimum landscaped open space requirements within this District.

3. Lot Area Regulations

a. Lot Area Requirement

Where a minimum lot area is specified in Section IV.E.2., no principal building or use shall be located on any lot of lesser area (such minimum lot area to be determined as set forth in these Lot Area Regulations, Section IV.E.3.), except as may be permitted hereinafter; and no such area shall include any portion of a street.

b. Residential Area Districts

The Single Residence and General Residence Districts are divided into four Area Districts, as follows:

- Area District No. 1, 2A and 2B (R-4);
- Area District No. 2C, 2D and 2E (R-3);
- Area District No. 3 (R-2); and
- Area District No. 4 (R-1 and G).

c. Irregularly-Shaped Lots

When the distance between any two points on lot lines is less than 50 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall be excluded from the computation of the minimum lot area unless the distance along such lot lines between such two points is less than 150 feet in such cases where the Minimum Lot Area is less than 20,000 square feet, as set forth in the Table of Dimensional Regulations, Section IV.E.2. Otherwise, when the distance between any two points is less than 80 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall be excluded from the computation of the minimum lot area, unless the distance along such lot lines between such two points is less than 240 feet. In all cases, the principal use shall not be located on such excluded area of the lot.

d. Uplands Area Requirement

For the purpose of this Section, any lot laid out to be a buildable lot must contain upland area totaling at least 100 percent of the minimum lot area requirement for the zoning district in which the land is situated. In addition, a minimum of 70 percent of the required minimum lot area must be contiguous upland area, and shall be the location for the principal structure on the lot. Portions of a lot excluded from the computation of a minimum lot area, as provided under subsections IV.E.3.c., above, shall not be used to meet the upland area requirements, herein.

A lot for single or two family residential use, shall be exempt from this subsection d. Uplands Area Requirement, provided such lot conformed to all zoning requirements at the time of recording or endorsement.

The term “upland” is defined herein as land which is not “Land under Water Bodies and Waterways”, “Freshwater Wetlands”, or “Vernal Pool Habitat” as set forth in the Framingham Wetlands Protection By-Law [Town of Framingham By-Laws Article V, Section 18.2], as well as land which is not an area of special flood hazard, as described under subsection III.A.1., herein.

e. Moderate Slope Requirement

For the purpose of this Section, any lot laid out to be a buildable lot must contain 100 percent of the minimum lot area requirement for the zoning district in which the land is situated, excluding areas that satisfy the moderate slope requirement defined herein. In addition, a minimum of 70 percent of the required minimum lot area must be

contiguous, and shall be the location for the principal structure on the lot. Portions of a lot excluded from the computation of a minimum lot area, as provided under subsections IV.E.3.c.and d., above, shall not be used to meet the moderate slope requirement, herein.

A lot for single or two family residential use shall be exempt from this Section e. Moderate Slope Requirement, provided such lot conformed to all zoning requirements at the time of the recording or endorsement.

The term "moderate slope" is defined and measured by the procedure as prescribed herein as all areas satisfy with slopes natural and unaltered greater than or equal to twenty percent (20%) over a horizontal distance of 100 feet, as measured perpendicular to the contour line as prescribed herein. For Lots lacking a horizontal distance of 100 feet, the Slope will be calculated as an elevation change across a horizontal distance of 50 feet as measured perpendicular to the contour line. Contours shall be at 2 foot intervals based on the most recent National Geodetic Vertical Datum (NGVD). Plans shall note the collection source of the contour data. Final slope shall be reviewed and confirmed by the Town Engineer and/or by the Town's professional consultant.

4. Lot Frontage and Width Regulations

a. Lot Frontage Requirement

Where a minimum lot frontage is specified in Section IV.E.2., no principal building or use shall be located on a lot which fronts a lesser distance on a way or street. No principal building or use shall be constructed or located on a lot unless adequate vehicular access exists or can be constructed to the buildable portion of the lot, proposed structure or use from the way or street providing the minimum lot frontage required by Section IV.E.2. Vehicular access shall be provided from the lot frontage to the principal building or use, provided that the Planning Board by Special Permit may allow an alternative vehicular access to the lot. A lawful pre-existing lot for single or two family residential use that pre-dates the enactment of this section, shall be exempt from this lot access requirement, provided such lot conformed to all zoning requirements at the time of recording or endorsement.

b. Lot Width Requirement

Each lot shall have a width such that the center of a circle having a minimum diameter of 80% of the required frontage of the lot can be passed along a continuous line from the sideline of the street along which the frontage of the lot is measured to any point of the building or proposed building on the lot without the circumference intersecting any side lot line.

In addition, each lot shall have a width such that the entire portion of the parcel from the lot frontage to the required front setback line shall have a minimum width equal to the required lot frontage as specified in Section IV.E.2., and such that the portion of the lot where any line passes through a principal building on the lot shall also have a minimum width equal to the required lot frontage as specified in Section IV.E.2.

5. Setback Regulations

a. Front and Side Setback Requirements

Where a minimum depth of setback is specified in Section IV.E.2., no building or structure shall be erected within the specified distance from the applicable lot line, except as permitted hereinafter.

b. Projections into Setbacks

1. Uncovered steps and ramps, and walls and fences no greater than six feet in height above the natural grade, may be permitted in a setback.

2. A portico over a front or a side doorway, or both, including a pediment, triangular-shaped or otherwise, supporting columns and decorative pilasters, over a landing or an entrance area, open or enclosed; the entrance area not being more than fifty square feet in area, may be permitted in a setback. Excluded from this exception are porticos in excess of one-story height.

c. Corner Clearance

In any district where a front setback is required, no building, fence or other structure may be erected and no vegetation may be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level

within that part of the lot bounded by the sidelines of intersecting streets and a straight line joining points on such sidelines 25 feet distant from the point of intersection of such sidelines or extensions thereof.

d. Side Setback Abutting Residential District

Where a side lot line of a lot in a non-residential district, abuts a Single Residence or General Residence Zoning District, there shall be a minimum side setback requirement for buildings on such lot of 30 feet; except in the Central Business (CB) or Neighborhood Business (B-1) Districts, where such minimum side setback requirement for buildings on such lot shall be 10 feet. This setback regulation for such lot in a non-residential district shall not be applicable if such lot is for a single family or two family residential use.

e. Determination of Lot Lines

Where the designation of a front or side lot line for the purpose of determining required yards is unclear because of the particular shape or type of lot, the Building Commissioner shall designate the appropriate front or side lot line.

f. Exception for Existing Alignment

In Single Residence, General Residence and Office and Professional Districts, if the alignment of existing principal buildings on adjacent lots on each side of a lot fronting the same street in the same district is nearer to the street line than the required front setback, the average of the existing alignments of all such buildings within 200 feet of said lot shall be the required front setback.

g. Special Permit for Limited Accessory Structures

1. The Zoning Board of Appeals may authorize by special permit the placement of Limited Accessory Structures within the minimum side setback, provide that the board can find that the structure is in keeping with, and not substantially detrimental to, the surrounding neighborhood.

2. Dimensional Regulations for Limited Accessory Structures – A Limited Accessory Structure:
   - **a.** Shall be no larger than 120 square feet of gross floor area,
   - **b.** Shall not be more than twelve feet in height as measured from the average natural grade at a distance of up to three feet from the structure,
   - **c.** Shall not be located within the required front setback or any closer to that setback than the primary structure.
   - **d.** For a residential use, the accessory structure may be located at a distance from the lot line not less than one-third of the required minimum side setback.
   - **e.** For a non-residential use, the accessory structure may be located at a distance from the lot line not less than one-half of the required minimum side setback.
3. No more than three Limited Accessory Structure shall be permitted within the required side setbacks on any one lot.

6. Open Space Regulations

a. Open Space Requirement

Where a minimum percentage of open space is specified in Section IV.E.2., no principal building or use shall be located or substantially altered on any lot in which such space is not provided.

b. Open Space in Front Setback

In any district where a front setback is required, landscaped open space ten feet in depth shall be provided along the entire width of the lot at the front lot line. Said strip may be interrupted by necessary vehicular and walkway entrances and exits.

c. Usable Open Space for One-family and Two-family Dwellings

All one-family and two-family detached dwellings shall have a minimum of 800 square feet of usable open space per bedroom.

d. Open Space in Setback Abutting Residential District or Uses

In any district where a non-residential use abuts or faces a residential zoning district or a single family or two family use, a landscaped open space buffer at a minimum depth of 15 feet, shall be provided and maintained in order to separate, both physically and visually, the residential use from the non-residential use; except in the Central Business (CB) or Neighborhood Business (B-1) Districts where such minimum open space depth shall be 5 feet. The landscaped open space buffer strip shall be continuous except for required vehicular access and pedestrian circulation.

The buffer strip shall include a combination of deciduous and/or evergreen trees and lower-level elements such as shrubs, hedges, grass, ground cover, fences, planted berms, and brick or stone walls. Such open space buffer strips shall provide a strong visual barrier between uses at pedestrian level and shall create a strong impression of spatial separation.

e. Landscaping Requirement

In every district and for all uses and structures, which are subject to site plan review, landscaping shall be provided in accordance with the purpose, intent, objectives and standards of Section III.E.8. of this By-Law, as feasible. All off-street parking plans and site plans, required under Sections IV.B. or VI.F. shall include a landscape plan and planting schedule prepared by a registered landscape architect. Landscaped buffer strips along street right of ways shall be in accordance with this Section IV.E.6. Open Space Regulations, except in Districts where a larger buffer is required. Site constraints shall be considered in applying the standards of Section III.E.8, which may be waived in accordance with Section III.E.10.c.

7. Building Height and Bulk Regulations

a. Maximum Height Requirement

Where a maximum height of buildings is specified in Section IV.E.2., no building or part of a building shall exceed the specified number of stories and furthermore, no building or part of a building shall exceed the specified feet above average finished grade, except as permitted hereinafter.

b. Exceptions to Maximum Height Requirement

1. The maximum height requirement specified in Section IV.E.2. shall not apply to accessory structures or appurtenances normally built above the roof level and necessary for the operation of the building or use. Such structures shall not be intended for human occupancy, and shall be erected only to serve the purpose for which they are intended. These structures include but are not limited to chimneys, penthouses for stairways and elevators, mechanical installations, and screening and parapets. Accessory structures or appurtenances may be built twenty-five percent above the maximum building roofline in the Technology Park and fifteen percent above the maximum building roofline in all other zoning districts, except in the Single Residence Districts R-1, R-2, R-3, and R-4, and General Residence Districts.

2. Steeples, monuments and towers not used for communication purposes and not intended for occupancy may be erected to a greater height than specified by Section IV.E.2 if a special permit is granted by the Zoning Board of Appeals after a public hearing.

3. Accessory structures above the building roofline shall be screened on all sides of the accessory structure, except as required for clearances by the building code. The design of the screen shall be incorporated into the architectural features of the building and constructed of a material and color compatible with other elements of the building.

c. Bulk (Lot Coverage and Floor Area) Requirements

For any building or group of buildings on a lot, including accessory buildings, the percentage of the lot covered by such buildings (Lot Coverage) or the ratio of the gross floor area of the building to the area of the lot (Floor Area Ratio) shall not exceed the maximum specified in Section IV.E.2.

d. Height Requirements Near Residential Districts

In addition to the height limitations as set forth under subsection a. and subsection b. herein, the following additional requirements shall apply for all buildings (except for those in single-family or two family use), in non-residential zoning districts, when such building is in close proximity to a single residence or general residence zoning district.

1. Buildings located less than 50 feet from a single residence or general residence district shall be a maximum of 30 feet in height above finished grade.

2. In the Central Business District (CB) and Neighborhood Business District (B-1), buildings located less than 50 feet from a single residence or general residence district may be exempted by the above height restriction, up to a maximum of 40 feet in height above finished grade, by special permit, in accordance with the requirements of Section VI.E. of this By-Law, if the SPGA determines that the proposed building would be consistent with the historic development pattern of the existing commercial center of the area, and that such building would not be more intrusive on the residential district than a building 30 feet in height. The Planning Board shall be the SPGA under this subsection.

3. In all non-residential zoning districts where the maximum building height for a use is designated as 6 stories and 80 feet above finished grade, as specified in Section IV.E.2. Table of Dimensional Regulations, the following height requirement shall apply when such use is in close proximity to a single residence or general residence zoning district:

DISTANCE FROM RESIDENTIAL DISTRICT	BUILDING HEIGHT
equal to or greater than **50** but less than **200** feet	**40** feet.
equal to or greater than **200** but less than **300** feet	**50** feet.
equal to or greater than **300** but less than **400** feet	**60** feet.
equal to or greater than **400** feet	**80** feet

For the purposes of this subsection, when a zone line runs along a street, the width of the right of way of the street shall be included in the calculation for distance from a residential zoning district.

8. Dimensional Regulations for Geriatric Care/Elderly Housing District Uses

a. Special Setback Requirements

Buildings on adjoining lots within the Geriatric Care/Elderly Housing District must meet the setback requirements specified by Section IV.E.2. for the district, but may be integrated with walkways and breezeways which interconnect buildings and provide pedestrian connections. Further, a minimum setback from the Geriatric Care/Elderly Housing District Boundary Line shall be as follows: 70 foot setback for a one-story or two-story building within the District, and 100 feet setback if building exceeds 2 stories, but a 50 foot setback from an Open Space District Boundary Line, regardless of height.

b. Floor Area Ratio Calculation Exemptions

Floor area ratio calculations within a Geriatric Care/Elderly Housing District shall not include the gross floor area of garages, attics, and basements of Independent Living Housing units which are not designed to be used or occupied as living areas.

c. Open Space Requirements in the District

Minimum Landscaped Open Space shall be 30 percent of the total Lot Area.

9. Dimensional Regulations and Design Guidelines in the Central Business District

a. Special Setback Requirements

1. Minimum front setback requirements shall be as regulated, except in areas where building lines have already been established, in which case building lines must be maintained.

2. No parking is permitted in the front setback area. The front setback may be used for landscaping and open space, cafes (when approved by special permit), pedestrian uses and access, and vehicular access only.

b. Design Standards

1. New construction or exterior renovation of existing structures in the Central Business District shall maintain a sense of history, pedestrian scale and pedestrian oriented character in order to enhance the quality of development in the District.

2. The Planning Board may require applicants, in need of a special permit for use in the Central Business District, to utilize façade easements in order to protect the values of historic structures. Such requirement would be applicable only where a development proposal, associated with such special permit, would result in the demolition or major exterior renovation of buildings, which are listed on the Inventory of Cultural Resources or are in a National Register District.

V. SPECIAL REGULATIONS

A. SPECIAL USES

1. The following uses shall require a special permit from the Planning Board in the Single Residence (R-1, R-2, R-3, and R-4), General Residence (G), Neighborhood Business (B-1), Community Business (B-2), General Business (B-3 and B-4), Central Business (CB), Business (B), Office and Professional (P), and Planned Reuse (PR) Districts:

a. Conversion of a single-family detached dwelling to multifamily use, subject to the following provisions:

(1) The structure must have been in existence as a residential structure on March 15, 1939.

(2) The total number of dwelling units after conversion shall not exceed the maximum number of single-family lots which could be attained on the parcel in conformance with the use and dimensional regulations of the underlying zoning district, as determined by the Planning Board.

(3) In connection with an application for a special permit under this section, an applicant shall submit a plan conforming to the requirements for a preliminary subdivision plan under the Planning Board's rules and regulations for the subdivision of land, or an "approval not required plan" if applicable, indicating the number and layout of single-family dwelling lots attainable under the Zoning By-Law without any variance or other special permit, and without any waiver of said rules and regulations.

(4) An application under this section shall be subject to the Site Plan Review provisions of Section VI.F. of this By-Law, regardless of the gross floor area of the structure to be converted.

(5) Any special permit issued under this section shall include the following conditions:

(a) the parcel for which the special permit has been granted shall not be further subdivided;

(b) the structure for which the special permit has been granted shall not be enlarged by any change to the exterior walls or roof;

(c) no variance of any sort shall be issued in conjunction with the use for which the special permit has been granted.

b. Assisted Living and Congregate Living Housing for the elderly, including non-profits, not-for-profits and for-profits, subject to the following conditions (1) - (10) for all new construction and for all rehabilitation/reconstruction of such use in an existing building where the existing footprint or floor area ratio (FAR) have increased; and subject to the following conditions (7) - (10) only for the rehabilitation/ reconstruction of such use in an existing building where the existing footprint and floor area ratio (FAR) have not increased:

(1) the development shall be on a parcel or parcels of land of not less than 5 acres, or not less than 1 acre per 10 units or fraction thereof, whichever acreage calculation is greater in Single Residence and General Residence Districts;

(2) the development shall be permitted only on a parcel or parcels of land located on a primary or collector roadway or with direct access to a primary or collector roadway;

(3) the Floor Area Ratio (FAR) shall not exceed .25 in Residential zones. In a Business District or Office and Professional District, the specified Floor Area Ratio for the District shall apply;

(4) the minimum front setback shall be 150 feet, of which at least 75 feet from the streetline shall be landscaped open space;

(5) the minimum side setback shall be 50 feet, except where the development abuts a lot in single-family, two-family or three-family use, in which case the minimum side setback shall be 200 feet;

(6) the maximum height of a structure (excluding chimneys, antennas and other appurtenances necessary for the operation of the building) in a Single Residence or General Residence District shall not exceed 2 1/2 stories and shall not exceed 35 feet when set back more than 300 feet of a single family, two-family or three-family residential lot line and shall not exceed 2 stories and shall not exceed 26 feet within 300 feet of a single family, two-family, or three-family residential lot line; in a Business District or Office and Professional District, the underlying height requirement shall apply;

(7) developments adjoining or facing residential uses, shall provide year-round opaque screening at the time of occupancy, comprised of walls, fences, berms, or evergreen plantings;

(8) all parking areas shall be provided with year-round opaque screening at the time of occupancy, comprised of walls, fences, berms, or evergreen plantings;

(9) developments located in a Single Residence District or General Residence District shall be designed for compatibility with the residential character of the area;

(10) developments shall be subject to Site Plan Review.

B. HISTORIC RE-USE

(1) Purpose and Intent

The purpose of this section is to promote the preservation of significant historic structures, neighborhood landmarks and open space, thereby enhancing the community's appearance and safeguarding our common architectural legacy for future generations. The intent of this section is to enable by special permit from the Planning Board the creation of alternative uses while maintaining strict controls to preserve all exterior features; to insure sensitivity and compatibility with the surrounding neighborhoods; and to provide an economic incentive to maintain and rehabilitate historic structures. This section is designed to encourage the adaptive reuse of such structure(s) where such reuse would more effectively preserve and enhance the architectural character of the surrounding neighborhood than would the redevelopment of the site following the demolition or significant exterior modification of these landmark structures.

(2) Applicability

The provisions of this section shall apply to all structures 50 years old or older together with any detached accessory structures 50 years old or older on the same lot as the principle structure in conformance with the provisions of this Section herein, provided that said structures are located in a zoning district that allows residential use and that said structures are found at a public hearing before the Historical Commission to be historically or architecturally significant pursuant to the procedures and criteria under Article V: Section 21 of the General By-Laws.

(3) Use and Dimensional Requirements

The reuse of an existing eligible structure(s) must conform to the following requirements:

(a) the existing uses of the property on which the historic structure(s) is located conform to the requirements of this Zoning By-Law or are lawfully existing non-conforming uses;

(b) the existing structure(s) on the property conform to the requirements of this Zoning By-Law or are lawfully existing nonconforming structures;

(c) the minimum lot area on which the structure is located is 20,000 square feet or more;

(d) the existing structure(s) including any attached additions that are considered by the Planning Board an integral part of the principle structure has a minimum floor area of 4,500 square feet or more, excluding any attic or basement areas or porches, decks and patio areas;

(e) the existing detached structure(s) historically or architecturally significant may be used for the purposes of this Section but shall not be included in the calculation of the minimum floor area of 4,500 square feet; and

(f) the existing gross floor area of the structure(s) may not be increased by more than 10%.

(4) Allowed Uses

(a) Condominiums are allowed subject to the following limitations:

(i) The minimum condominium unit size schedule is

1 Bedroom – 900 square feet,
2 Bedrooms – 1,200 square feet, and
3 Bedrooms – 1,500 square feet.

(ii) Studio/Efficiency units are expressly prohibited.

(iii) Parking Requirement - There shall be one parking space per proposed bedroom (including both indoor and outdoor parking spaces), plus 0.5 parking spaces per unit for visitor parking. For all other uses on the premises the number of parking spaces provided shall be accordance with the Section IV.B. of the Zoning By-Law.

(iv) Location of Parking Areas - No parking space shall be constructed forward of an imaginary line drawn through the front façade plane farthest from any front lot line. The Planning Board may waive this requirement if it determines that the site layout or location of the structure(s) makes this requirement unfeasible or that a better plan will result from such a waiver.

(v) Waiver of the Required Number of Parking Spaces – In accordance with Section IV.B.1.c., the Planning Board may by Special Permit reduce the total number of required parking spaces if it deems appropriate and beneficial to the proposed modification or reuse of the structure(s).

(vi) Condominium Association - The applicant shall establish a condominium association for the residents of the structure. The condominium association shall operate in accordance with a Condominium Association Agreement which, along with the Master Deed, Unit Deeds, Bylaws and Rules and Regulations, shall be submitted to the Planning Board and Town Counsel for review to ensure it complies with this By-Law. The Condominium Association Agreement, along with the Master Deed, Unit Deeds, By-Laws and Rules and Regulation shall not be adopted or recorded until approved by the Planning Board and Town Counsel under this provision. The condominium association documents shall provide for the maintenance in perpetuity of the common area land and common facilities including but not limited to any sewage system, water supply, parking facility or lot, landscape feature, common use area, and drainage system including any detention or retention basin. Snow-plowing within the project limits shall be in perpetuity the responsibility of the project owner/developer or subsequent condominium association and not of the Town.

(b) Bed and Breakfast is an allowed use subject to the following limitations:

(i) the Bed and Breakfast shall be the legal residence of the owner and be owner occupied;

(ii) the Bed and Breakfast shall be subordinate and incidental to the main residential use of the principle structure;

(iii) individual guests are prohibited from any single stay at a particular Bed and Breakfast establishment for more than fourteen consecutive days;

(iv) rooms used for sleeping shall be part of the existing principle structure and shall not have been specifically constructed for rental purposes;

(v) the primary structure shall contain full living quarters for the property owner;

(vi) the Bed and Breakfast operation shall not use more than fifty percent (50%) of the principle structure for rental sleeping accommodation purposes. Common areas such as the kitchen, living room or dining room shall not be included in this calculation;

(vii) the only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging in the facility;

(viii) signs shall be as allowed for other uses in the zoning district;

(ix) the parking requirement shall be one space per guestroom plus two spaces for the primary residence;

(x) other uses on the premises shall require parking spaces in accordance with Section IV.B. of the Zoning Bylaw; and

(xi) the Bed and Breakfast shall be licensed by the Town and shall specifically comply with all of the requirements of the Board of Health.

(5) Historic Reuse Special Permit Provisions

(a) Requirement

In all instances once a Historic Reuse Special Permit application is filed under this Section, no structure shall be erected, enlarged, or modified and no land shall be divided or subdivided or modified prior to the granting or denial of said Permit.

(b) Special Permit Application Review Procedure

(i) The Planning Board shall be the SPGA for the issuance of a Historic Reuse Special Permit. Such special permit application shall be submitted, considered, and issued in accordance with the provisions herein and with Section VI.E. of the Framingham Zoning By-Law and all other applicable regulations.

(ii) Prior to the filing of an application for Historic Reuse Special Permit, the applicant shall submit plans to the Building Commissioner, who shall advise the applicant as to the pertinent sections of the Zoning By-Law in accordance with Section VI.E.2.a.

(iii) Following the Building Commissioner review and prior to the filing of a Historic Reuse Special Permit application, the Applicant shall submit copies of the draft application submittal to the Planning Board, the Historical Commission, and the Historic District Commission.

(iv) Within sixty days of receipt of the draft application submittal and pursuant to Article V: Section 21. of the General By-Laws, the Historical Commission shall hold a public hearing to determine if the structure(s) intended for Historic Reuse is historically or architecturally significant as defined in Article V: Section 21.2.6. of the General By-Laws and shall provide a written report of its findings to the Planning Board.

(v) Any person intending to submit a Historic Reuse Special Permit application shall have a pre-application conference with the full Planning Board that has been noticed by a community notice sign posted on the property and noticed in the local newspaper, at which time the applicant shall

describe the proposed plan and any impacts to the parcel of land that will be required in order to file a complete application. No tree removal, no utility installation, no ditching, no soil or percolation testing, no well testing, no grading or construction of roads (temporary or otherwise), no grading of land or lots, no excavation, no dredging or filling, and no demolition or construction of structures shall be done on any part of the development site until the proposal has been reviewed at the pre-application conference and the Board has given its approval for the required work.

(vi) If the Historical Commission finds the structures historically and architecturally significant and following the pre-application conference and receipt by the Planning Board of a formal application submittal conforming to the submittal requirements herein and as specified on the application, the Planning Board shall hold a public hearing in accordance with the conduct and notification of public hearings and decisions for all special permits pursuant to M.G.L., c.40A., sect. 9 and Section VI.E. of the Framingham Zoning By-Law.

(vii) All boards, commissions, and departments shall, within thirty-five days of receiving a copy of said plan, submit a written report containing recommendations and the reasons therefore to the Planning Board, and may recommend conditions deemed appropriate for the proposed use. In addition to attending the municipal staff review meeting, the Applicant shall meet separately with the Historic District Commission to solicit their input on the Historic Reuse Special Permit application. The Historic District Commission shall review the design elements of the structure(s) and site considering the design standards of Section V.B.(5)(d) herein. Following said meeting, the Historic District Commission may submit a written recommendation on the Historic Reuse Special Permit application to the Planning Board for consideration during the public hearing. The Planning Board shall not render a decision on any such application until said recommendations have been received and considered or until the thirty-five day period has expired, whichever is earlier. Failure of such agencies to submit their respective recommendations shall be deemed lack of opposition thereto.

(viii) The Planning Board, at its discretion and based upon the pre-application conference and preliminary assessment of the scale of the development proposed, may modify or waive the application requirements for submission herein. Such modifications or waivers from the application submission requirements shall be requested in writing with supporting reasons. Any such preliminary waivers granted at the pre-application or preliminary level of review is a preliminary assessment by the Planning Board and such waivers shall not be binding upon the Planning Board.

(c) Contents and Scope of Applications

The contents and scope for all Applications for Special Permit for Historic Reuse shall include the information listed in Section VI.F.5.a.1. through 16., including impact assessments in accordance with Section VI.F.5.g.(2) Environmental Impact Assessment, Section VI.F.5.g.(4) Community Impact Assessment and Section VI.F.5.g.(5) Parking Impact Assessment and shall be prepared by qualified professionals. If the proposed number of condominium units or guest rooms is ten or greater, the Planning Board may require the filing of a Traffic Impact Assessment in accordance with Section VI.F.5.g.(1). All plans shall be prepared by a Professional Engineer, Architect, or Landscape Architect Registered in the Commonwealth of Massachusetts. Applications shall include all information unless waived in conformance with Section VI.F.3.b..

To assist the Planning Board in rendering its decision on the application, said application shall also include the following:

(i) a narrative stating the historical significance of the structures and/or site, and an architectural description of the structures;

(ii) photographs of all existing elevations;

(iii) interior floor plan(s) showing the proposed uses of interior space with the gross floor area for each use;

(iv) if new construction or additions are proposed, a perspective drawing showing the new construction or additions in relation to existing structure(s) on the site and on adjacent land;

(v) a plan showing existing and proposed landscaping on the site;

(vi) a list of any requested waivers with the justification for each; and

(vii) based upon the scope of the project and physical characteristics of the parcel, the Planning Board may require additional information or supplemental impact statement(s).

(d) Design Standards for Exterior Changes to Structures and Site

All proposed changes to structure(s) exteriors and to the site shall meet the following Design Criteria:

Scale	All exterior structural changes shall relate well to the pedestrian scale.
Form and Bulk	Facades and rooflines shall be designed to be compatible with the historic style of structure(s).
Façade	Façade materials shall be compatible with the historic style of the structure(s). Traditional materials such as masonry and wood are encouraged for the exterior facades. The architectural vocabulary should include appropriate, materials, details, lighting fixtures, and signage (if any). The use of blank walls on the front façade(s) (where the structure(s) fronts on a street or streets) shall be discouraged.
Windows	Window styles shall be compatible with the historic style of the structure(s) Windows shall be arranged to give the façade a sense of balance and to compliment the historic fabric of the existing structure.
Doorways	Exterior doors shall be compatible with the historic style of the structure(s). Doorways shall be arranged to give the façade a sense of balance and to compliment the historic fabric of the existing structure.
Service Areas, Utilities and Equipment	Service, loading and trash disposal areas and mechanical equipment and utilities shall be unobtrusive or sufficiently screened and shall incorporate effective techniques for visual and noise buffering from adjacent uses.
Exterior Lighting	Outdoor lighting, including lighting on the exterior of the structure(s) or lighting in parking areas, shall be designed and located to minimize glare and light spillover to neighboring properties and shall be at a residential scale and in keeping with the historic architectural style of the structure(s).
Landscaping	All proposed landscaping plans shall preserve to the greatest extent possible existing old growth vegetation and shall be designed to buffer all parking areas and any degrading features from abutters and the public view and to enhance the structural fabric or historical character defining features of the structures by reinforcing or recapturing the historical context of the property.

(e) Findings and Conditions of Approval

The Planning Board shall approve only those applications that meet the Conditions of Approval of a special permit pursuant to Section VI.E.3.a. and the following conditions:

(i) the proposal provides for the harmonious relationship of proposed structures and additions to the terrain and to the use, scale, materials, historic character and architecture of existing structure(s) on the site or in the vicinity that have functional or visual relationship to the proposed structures and any additions;

(ii) the proposal protects Framingham's heritage by minimizing demolition or alteration of historically or architecturally significant uses, structures or architectural elements;

(iii) the proposal enhances the historic character, streetscape~~s~~, open space, trees, plantings, and other natural features of the site;

(iv) the proposal ensures that the project retains an amount of land substantial enough to protect the public's view of the primary façade of the structure, if the subdivision of land or construction of additional structures is proposed;

(v) the proposal meets the requirements of the table of design standards, Section V.B.(5)(d) Design Standards herein;

(vi) the Historical Commission has determined the structure(s) to be of substantial historic or architectural significance and suitable for preservation and further that the proposal is consistent with the written recommendations of the Historical Commission; and

(vii) the Historic District Commission has made a favorable written recommendation regarding the proposed design.

(f) Conditions, Limitations and Safeguard

In granting approval of a Historic Reuse Special Permit application the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. In addition to the conditions specified under Section VI.E.3.b., such conditions may include, but are not limited to, among other matters and subjects:

(i) requirement for a preservation restriction on the façade or structure(s) sufficient to preserve the historic and architectural merit of the property; and

(ii) future development of property subject to a Historic Reuse Special Permit is expressly prohibited without an amendment to said special permit, which shall be upon filing a written petition to the Planning Board and following a public hearing and written finding by the Planning Board that the proposed change or changes do not substantially derogate from the intent and purpose herein and for the purposes of this section. Future development shall mean the creation of additional lots by deed, division, or subdivision as defined under law, a change in use, a change in the exterior of the structure, or a change in the location of a structure or use on the property.

C. AUTOMATIC CARWASH AND/OR SELF-SERVICE CARWASH

Automatic or self-service carwashes constructed after the adoption of this section shall require review and approval in conformance with the provisions of this section. The Planning Board shall be the review and approval authority for permits granted under this section. Automatic and/or self-service carwashes shall be designed and operated according to the following standards:

1. Every new automatic or self-service carwash facility must provide an on-site, defined, paved area for the queuing of motor vehicles awaiting wash. The queuing area shall be designed to achieve the following objectives:

a. Accommodate the maximum queue expected during peak operating period. The applicant shall supply the Planning Board with estimates of demand during peak operating periods which form the basis for site design.

b. No queuing shall be permitted onto a public or private vehicular or pedestrian way open to use by the general public.

2. Exit drives from every automatic or self-service carwash facility shall be designed to prevent water from the car wash from collecting within vehicular or pedestrian rights-of-way in or adjacent to the subject site.

3. Every automatic or self-service carwash facility must include water reclamation to the maximum extent feasible.

4. The following additional provisions shall be applicable only to automatic carwash facilities.

a. Every automatic carwash facility must have a mechanical dryer operation at the end of the wash cycle;

b. Every automatic carwash facility must have a drip time in the wash cycle between the last application of water and the blower;

c. The Planning Board may also require that an attendant be assigned exclusively to the automatic carwash facility during all hours of operation.

5. The following additional provision shall be applicable to self-service carwash facilities:
Every self-service carwash facility shall have an on-site, defined, paved surface for drying and vacuuming vehicles. This area shall be separate from and outside of the wash bays and of sufficient area to accommodate peak period demand.

6. An applicant proposing to construct an automatic or self-service carwash shall submit a site plan application which shall include the following information:

a. A locus map.

b. The location and dimensions of all buildings and structures. Lot and street lines and intersections within 300 feet. Zoning classification, ownership and use of all parcels immediately abutting the subject site.

c. A traffic impact assessment which shall include the projected peak hour and daily traffic generated by the carwash on roads and ways in the vicinity of the development; sight lines at intersections of proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed carwash; and projected post-development traffic volumes and levels of service of the intersections and streets likely to be affected by the proposed carwash.

d. The location and dimensions of all driveways, maneuvering spaces, queuing areas, parking spaces, employee parking as is appropriate, and proposed circulation of traffic.

e. The extent of impervious surfaces and the provisions for management of storm water as well as water used to wash vehicles. Drainage computations and limits of floodways shall be shown where applicable. Snow disposal areas shall also be shown.

f. The location, dimension and type of materials for open space, planting and buffers.

g. A polar diagram showing direction and intensity of outdoor lighting.

h. Any additional information required by the Planning Board to ensure compliance with this Section.

i. The Planning Board may waive any of the above requirements.

7. Any application for review and approval of an Automatic and/or Self-service Carwash shall be subject also to Site Plan Review under Section VI.F.2.a. Such application should be provided concurrently. The application process, review

procedure and decision process for this Section shall follow the application process, review procedure and decision process, as applicable, under Site Plan Review, Section VI.F.

8. In granting approval of an application for an automatic or self-service carwash, the Planning Board may attach conditions, limitations and safeguards as are necessary. Such conditions shall be in writing and shall be part of such approval. Such limitations may include the conditions set forth in Section VI.F.8. of this By-law, and may also include the additional condition set forth below:

> conditions to permit the Planning Board to evaluate the facility after one year of operation to determine that the conditions are sufficient.

The failure to conform to and maintain the foregoing standards may result, after hearing before the Planning Board, in revocation of any permit issued hereunder.

D. GERIATRIC CARE/ELDERLY HOUSING DISTRICT

1. Purpose and Intent

The purpose and intent of a Geriatric Care/Elderly Housing District is to encourage the development of a continuum of geriatric care facilities, including housing and community services for the elderly, with a design compatible with the surrounding neighborhood and internally cohesive.

2. Applicability

The Geriatric Care/Elderly Housing District may be applied only to single or contiguous lots containing a total of at least 20 acres of land. No individual use (including each subcomponent of Permitted Uses) shall consist of more than fifty percent (50%) of the potential floor area allowed in the District. Individual lots in the District may be developed for one or more buildings.

3. Permitted Uses.

No building or structure shall be constructed, used, or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

a. Housing for the elderly, including Independent Living Housing, Congregate Living Housing, Assisted Living Housing and nursing homes, and related facilities, provided that at least one occupant of each housing unit shall have attained the age of 55 and any other occupants of each housing unit shall have attained the age of 50.

b. Health care facilities and services for the elderly, including Nursing Care Facilities, Geriatric Hospital Facilities, Hospice Facilities, and rehabilitation centers and programs, home health services and medical offices.

c. Community and social services primarily for the elderly, day care centers for children or the elderly, places of worship, transportation services, meals on wheels and related eldercare services.

d. Gardens and Greenhouses.

e. Cultural and Educational Centers for cultural and educational programs, events and performances. Only one such facility available for use by the general public shall be permitted within a district. The total combined indoor and outdoor seating capacity of such facility shall not exceed 200 seats. Additional rooms, designed for educational or cultural programs for the residents and staff of the district, shall be permitted.

f. Health club facilities and recreation facilities, intended for the primary use and convenience of the residents and staff of the Geriatric Care/Elderly Housing District and elderly residents, age 55 and older, of the Town of Framingham, such as swimming pools, exercise facilities and tennis courts.

g. Passive Recreation Buffer Areas for the installation, repair and maintenance of footpaths and trails; underground utilities; and public access and drainage easements.

h. Outdoor recreational facility, as defined in Section I.E.1.

i. Accessory Uses: Retail sales and services including restaurants, snack bars, gift shops, laundry services, barber/beautician, banking and financial services, businesses and professional offices, and personal services not specifically noted elsewhere in this Section, subject to the following conditions:

(1) Accessory Uses shall be primarily for the use and convenience of the elderly residents living, and service staff working within the Geriatric Care/Elderly Housing District;

(2) Accessory Uses may not exceed five (5%) of the total floor area of all permitted uses that may be built in **t**he Geriatric Care/Elderly Housing District;

(3) No Accessory Use, other than a restaurant, may occupy more than 1,000 square feet;

(4) Capacity of a restaurant shall not exceed 60 seats;

(5) Accessory Uses shall be wholly within a building and shall have no exterior advertising display.

4. The following uses shall require a special permit from the Zoning Board of Appeals:

a. Indoor non-profit recreational facilities such as swimming pools, tennis court, skating rink, or children's camp or center.

E. WIRELESS COMMUNICATIONS FACILITIES

1. Purpose

This Section is designed to provide guidance for the installation of towers, antennas and other communication structures for all types of wireless communications within the Town of Framingham. The By-Law will establish standards to protect the interests of the general public, provide for public safety, and minimize visual impacts on residential districts.

2. Definitions

a. AG: Above-ground elevation at base of mounting structure.

b. ANTENNA: A device, attached to any structure, for the purpose of transmitting or receiving wireless communication.

c. ART: Above-rooftop of supporting building, including any penthouse, parapet or other similar structure extending above the rooftop.

e. TOWER: Any structure to which an antenna may be attached for the purpose of transmitting or receiving wireless communications, including lattice or monopole towers, water towers, and church steeples.

f. WIRELESS COMMUNICATIONS FACILITY (WCF): Any structure or device that is used for the express purpose of conducting wireless communication including antennas, towers, satellite dishes, or equipment for transferring wireless transmissions with or without a building to house and/or maintain such equipment.

3. General Requirements

a. Basic Requirements

1) No wireless communications facility (which shall include monopoles, satellite dish[es] over one meter in diameter or antennas), shall be erected or installed except in compliance with the provisions of this Section, and shall require a special permit with review and approval as set forth herein.

2) Any proposed extension in height, addition of cells, antenna or panels, or a new replacement of a facility shall be subject to the provisions of the bylaw.

3) The Zoning Board of Appeals shall be the SPGA for special permits under this Section.

b. Conditions

1) To the extent feasible, all service providers shall colocate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) as technically practicable.

2) The SPGA must find that existing or approved facilities cannot accommodate the wireless communications equipment planned for any proposed facility, before a new wireless communications facility may be approved by the SPGA.

3) Existing on-site vegetation shall be preserved to the maximum extent practicable.

4) All wireless communications facilities shall minimize, to the extent feasible, adverse visual effects on the environment. The SPGA may impose reasonable conditions to ensure this result, including painting and lighting standards.

5) All wireless communication facilities shall minimize, to the extent feasible, adverse visual effects to the community. Where feasible, the equipment to relay the wireless transmission or to transfer the wireless transmissions to the phone system shall be located inside an existing structure. Otherwise, such equipment shall be located in a new structure in a location where the visual impact to the community will be minimized. The SPGA may impose conditions on the siting and screening of such structure.

6) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

7) Applicants proposing to erect a wireless communications facility on municipally-owned land or structures shall provide evidence of contractual authorization by the Town of Framingham to conduct wireless communication services on municipally-owned properties.

8) Only free-standing monopoles, with associated antenna and/or panels, are allowed. The SPGA shall not grant a special permit for lattice towers and similar facilities requiring three or more legs and/or guy wires for support.

c. Maintenance

The landowner of record shall be responsible for ongoing proper maintenance of the Wireless Communications Facility. Verification of maintenance and structural integrity by a certified structural engineer shall be required at the request of the Building Commissioner on a biannual basis. The Building Commissioner shall require a maintenance and removal guarantee bond for all wireless communications facilities subject to special permit under this Section V.E. The Building Commissioner may require such bond for facilities which are exempt from special permit under subsection V.E.3.e., below.

d. Removal

Any wireless communication facility shall be removed within one year of cessation of use.

e. Exemptions

The following types of wireless communications facilities are exempt from the special permit requirement of this bylaw and may be constructed, erected, installed, placed and/or used within the Town subject to the issuance of a building permit by the Building Commissioner.

1) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that (1) the tower is not used or licensed for any commercial purpose; (2) the tower must have a cost or replacement value of less than $10,000.00; (3) if the tower is a free-standing device, such device shall be installed in the rear yard only; and (4) the tower must be removed if the use is discontinued for one year.

2) Towers used for the purposes set forth in M.G.L. C.40A, Section 3; and

3) Wireless Communication Facilities installed on other structures, provided that such Wireless Communications Facility, including its support, is:

a) finished in a manner designed to be aesthetically consistent with the exterior finish of such structure; and
b) mounted in such a manner so that it does not:

(1) obscure any window or other exterior architectural feature;

(2) extend above the highest point of the roof by more than fifteen feet;
c) comprised of wireless communication facilities which do not individually or in the aggregate have a front surface facing surrounding streets and adjacent properties that exceeds fifty square feet in area.

All applications for a building permit shall include color photographs of the existing structure to which the WCF will be attached and a color photograph or rendition illustrating the WCF.

4. Dimensional Requirements for Wireless Communication Facilities

a. A Wireless Communication Facility shall comply with the dimensional requirements applicable to structures for the District in which it is located; provided, however, that the following height and setback limitations for a Wireless Communication Facility shall supersede any limitations for the District.

b. Height Requirements

1) Any structure-mounted WCF shall not exceed fifteen feet ART, and the total height from ground level to top of Facility shall not exceed eighty feet AG.

2) Any free-standing WCF shall not exceed eighty feet AG.

c. Setback Requirements

1) Any structure-mounted WCF shall conform to setback requirements as set forth in Section IV.E.2 of the bylaws.

2) The setback of a free-standing WCF from the property line of the lot on which it is located shall be at least equal to the height of the structure plus twenty feet. The setback of any such facility shall be a minimum of three hundred feet from a residential zoning district or residential use.

d. Except for the replacement of an existing WCF, the SPGA shall not grant a special permit for a WCF in a residential zone.

5. Application Procedure

a. All persons desiring to erect or modify a WCF shall apply for a special permit, in accordance with this bylaw.

b. No application shall be accepted or acted upon until all the required information as set forth in this bylaw is provided by the applicant and all required fees are paid.

c. The Building Commissioner or his agent shall perform a field inspection on all applications for a WCF prior to the hearing for the special permit. The results of the inspection shall become a permanent part of the applicant's file on a form prescribed by the Building Commissioner, and shall bear the date of inspection, comments and the signature of the inspecting officer.

d. All applications for special permit shall include:

1) A locus plan at a scale of 1" = 100' for each proposed communications structure.

2) A site plan for each proposed communications structure at a scale sufficient to show setback of the wireless communications facility from the lot lines and indicating buildings, if any, and colors, landscape, lighting and fencing, and all residential districts and residential uses within three hundred feet of the facility;

3) Certification by a professional engineer that Federal Communications Commission (FCC), Federal Aviation Administration (FAA), Massachusetts Aeronautics Commission, Massachusetts Department of Public Health and American National Standards Institute (ANSI) standards insofar as they are applicable have been met;

4) Specifications for construction, lighting and wiring in accordance with state and national building codes, including a description of the capacity of the WCF including the number and types of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations;

5) A statement of the services to be supported by the proposed communications structure;

6) Evidence, if applicant is sole user of a structure, that all possible means of colocation for multiple use of antennae elsewhere have been exhausted;

7) Assessor's plan showing proposed locus;

8) A completed application form.

e. Fees for permits shall be established and amended from time to time by the Board of Selectmen.

f. The owner of the WCF shall provide to the Town a certificate of insurance on a Commercial General Liability (CGL) form. The CGL insurance must be on an occurrence basis and at a limit as established and as may be amended from time to time by the Town of Framingham.

6. Design Requirements

The following guidelines shall be used when preparing plans for the siting and construction of all Wireless Communications Facilities:

a. Any facility shall be designed to be constructed to accommodate its anticipated and future use and shall be designed to accommodate the maximum number of users technologically practicable. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.

b. All WCF's shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so as to blend in with the landscape or the structure on which they are located. A different color scheme shall be used to blend the structure with the landscape below and above the tree or building line.

c. Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free-standing dishes or antennae shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.

d. Fencing shall be provided to control access to WCF's and shall be compatible with the character of the district.

e. There shall be no signs, except for announcement signs, "No Trespassing" signs and a required sign giving the telephone number where the owner may be reached on a twenty-four-hour (24-hr.) basis. All signs shall conform with the Sign bylaws.

f. Lighting shall be limited to that needed for emergencies and/or as required by the FAA, local, state or federal authorities, and shall be directed in such a way as to minimize glare and cause the least amount of interference with and light spillover onto neighboring properties.

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

7. Permit to Construct

Upon receipt of a special permit from the SPGA, the applicant shall apply to the Building Commissioner for a permit to construct a WCF and shall provide written evidence that all preconstruction conditions as may be a part of the special permit decision have been satisfied.

F. Open Space Residential Development

1. Purpose and Intent

The purpose of this Section is to allow, by special permit from the Planning Board, an alternate pattern of land development to the standard subdivision permitted in the single family residential districts (R-3 and R-4) in order to provide for the public interest:

a. by encouraging the preservation of open space and natural landscape features in perpetuity;

b. by encouraging creative site planning and the efficient use of land in harmony with its natural features through development which is designed to accommodate a site's physical characteristics such as topography, vegetation and wildlife habitat, wetlands and other water resources, and open spaces such as farmlands and meadows; and

c. by preserving significant natural, historical or archaeological resources, including major scenic views.

The intent of this Section is to guide development consistent with the Town's Master Plan, Open Space Plan, and Preservation Plan and to establish flexible residential development standards and procedures that will support these objectives.

2. Applicability

Open Space Residential Development (OSRD) shall be allowed, by special permit, within "Single Residence R-3" and "Single Residence R-4" Zoning Districts, subject to the requirements of this By-Law for those districts, and in accordance with the additional requirements and standards specified herein. The Planning Board shall be the SPGA for all special permits issued under this Section. The Planning Board may issue a special permit under this Section, subject to the requirements of this By-Law, and in accordance with the additional requirements and standards specified within this Section V.F., only if no variances have been issued from the requirements of this Section V.F.

3. General Requirements

a. Any parcel or parcels of land containing ten or more acres, in one ownership, or any combination of parcels of land consolidated under a Purchase and Sale agreement containing ten or more acres, or any combination of contiguous parcels of land containing ten or more acres under ownership by two or more property owners where all such owners jointly apply for an OSRD Special Permit, in all cases, with definite boundaries ascertainable from a recorded deed or recorded plan, located within a zone permitting Open Space Residential Development and which may be developed as a conventional subdivision, may be considered for an Open Space Residential Development subject to a special permit. Such parcel or parcels to be included in an Open Space Residential Development Special Permit shall be defined herein as the **OSRD tract**

b. After an Open Space Residential Development application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and a decision issued, as provided by these regulations.

4. Open Space Residential Development Standards

a. Permitted Uses: Permitted Uses in an OSRD shall be detached single family dwellings, accessory uses associated with residential uses as may be permitted in the Single Residence District, and accessory facilities owned and operated by the owner of the OSRD or the residents, such as building and grounds maintenance facilities, and recreation facilities and other uses noted under subsection **4.g**. Use of Common Open Space, herein.

b. Minimum OSRD Tract Size:

(1) The total area of the OSRD tract proposed for Open Space Residential Development shall be at least ten contiguous acres. The OSRD tract must have at least 40 feet of frontage on an existing Town way. While existing public and private ways need not constitute boundaries of the OSRD tract, the area within such ways shall not be counted in determining its size.

(2) The Planning Board may permit lots on directly opposite sides of a street to qualify as a single OSRD tract of land. To permit such division of an OSRD tract of land by a street, the Planning Board must find that this would comply with the purposes of this section and not result in any more dwelling units than would be possible in accordance with the provisions of this Bylaw if the lots on either side of the street were developed separately. If the Planning Board approves an OSRD tract of land divided by a street, it may permit the total number of permitted dwelling units to be constructed on either side of the street, subject to the Dimensional Regulations and Design Standards under subsection 4. herein.

c. Density: The number of dwelling units in an OSRD shall be calculated via a Density Yield Plan.

(1) Density Yield Plan: The number of building lots which the Planning Board finds would be permitted by a conventional subdivision under the zoning requirements of the Zoning By-Law (other than the Special Permit

provisions under this Section IV.F.) and all applicable land use regulations in the district (including wetlands protection), and complying with the Subdivision Rules and Regulations, as demonstrated by a preliminary subdivision density yield plan. Major site features and constraints to development should be delineated on this plan. In parcels located in areas not serviced by public sewer, and not proposed for extension of public sewer, the applicant must certify that each lot identified on the plan is buildable, as evidenced by a soils test, consistent with Title 5. In parcels located partly in more than one district, no more than the total number of lots which would be permitted under the zoning requirements of the Zoning By-Law (other than the special permit provisions under this Section IV.F.) in the combined districts, and complying with Subdivision Rules and Regulations, shall be permitted.

Such Density Yield Plan shall be submitted, as provided under Section 5 Special Permit Application and Procedures, herein. The applicant is encouraged to submit such material to the Planning Board office early in the development process, prior to submittal of a completed application, for verification and acceptance of the proposed development density.

d. Dimensional Regulations: The Planning Board may grant a reduction of all dimensional regulations, specified in Section IV.E. for the zoning district, for all portions of an Open Space Residential Development, if the Planning Board finds that such reduction will result in better design, improved protection of natural and scenic resources, and will otherwise comply with these regulations, provided that in no instance shall any residential building lot deviate from the following Requirements:

(1) Minimum Lot Area: Each lot within an OSRD shall have a minimum lot area of 12,000 square feet in the R-3 Single Residence District, and shall have a minimum lot area of 20,000 square feet in the R-4 Single Residence District where public sewer or a community sewage collection and treatment system is provided.

(2) Minimum Frontage and Width: Each lot within an OSRD shall have a minimum frontage and width requirement of forty feet.

(3) Minimum Lot Width at Building Line: Each lot within an OSRD shall have a lot width of not less than sixty-five feet in all directions where residential buildings or accessory structures are located.

(4) Minimum Front Setback Requirement: The minimum front setback within an OSRD shall be thirty feet.

(5) Building Location Requirements: No structure shall be located within thirty feet of a residential structure on another lot in the OSRD tract in an R-3 zone, or within forty-five feet of a residential structure on another lot in the OSRD tract in an R-4 zone, or within thirty feet of the nearest point of the layout of a common drive, or within thirty feet from the sideline of a street, or within thirty feet of the Common Open Space (as set forth under subsections f., g., and h. herein), or within fifty feet of the side boundaries of the OSRD tract. The Planning Board may require increased setbacks of buildings within the OSRD from some or all of the boundaries of the OSRD tract. A landscaped or natural vegetative area along the OSRD tract boundaries may be required, as appropriate, in order to provide a physical or visual separation between abutting uses. Natural vegetation should be retained in this vegetative area, whenever possible.

(6) Building Height Requirements: The maximum building height shall not exceed the building height requirements as specified for the district under Section IV.E. herein.

(7) Maximum Building Lot Coverage: The maximum building lot coverage shall not exceed twelve percent.

e. Streets and Utilities: All streets, whether public or private, and all drainage facilities and utilities, shall be designed and constructed in accordance with the Design Standards and Specifications set forth in the of the "Rules and Regulations Governing the Subdivision of Land in the Town of Framingham", as amended. Waivers to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a special permit hereunder, in accordance with Massachusetts General Laws, Chapter 41, Section 81R, provided the Board determines such exceptions are in the public interest and are not inconsistent with the purposes of this Section, the Subdivision Rules and Regulations, and the Zoning By-Law.

f. Common Open Space Design Standards

(1) Within an Open Space Residential Development, no less than forty percent (40%) of the land area shall be devoted to Common Open Space in an R-4 District, and no less than twenty-five percent (25%) of the land area shall be devoted to Common Open Space in an R-3 District. The Common Open Space shall not include

land set aside for roads or residential parking, nor shall it include the residential building lots. No more than fifty percent (50%) of the Common Open Space shall contain wetlands as defined by Massachusetts General Laws, Chapter 131, Section 40.

(2) Common Open Space shall be designed and planned as large, contiguous units, whenever possible, with logical boundaries. Strips or narrow parcels of Common Open Space shall be permitted only when necessary for access, when necessary to connect to other significant areas, when they are designed to protect linear resources such as trails or streams, or as vegetated buffer strips along the site's perimeter where the Planning Board finds that such strips are deemed appropriate and consistent with the purpose of the OSRD.

(3) Common Open Space may be set aside in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.

(4) Common Open Space shall be designed as part of larger continuous and integrated open space systems. Whenever possible, it should connect with existing or potential conservation or open space areas on adjoining parcels.

(5) The Common Open Space shall include adequate upland access from a way or street.

(6) The Common Open Space shall generally be directly accessible to each dwelling unit in the OSRD, unless the Planning Board finds that, due to topography or other conditions, this access is not practical.

(7) The Common Open Space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes. The Common Open Space shall include the most sensitive resource areas of a property. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:

(a) Land which enhances or protects wetlands or floodplain adjacent to a water body, or which provides public access to the water body, or which provides water related recreational opportunities;

(b) Land which currently is in agricultural use or land which is suitable in size, location and soil characteristics for agricultural use;

(c) Land which provides a significant wildlife habitat or which is a unique natural area;

(d) Land which is to be developed for active recreational use including playing fields, boat launching areas, playgrounds, and neighborhood parks;

(e) Land which preserves existing trail networks or land on which new trails will be developed, for integration into an existing trail network;

(g) Land which enhances or provides significant scenic vistas or views, or which provides scenic roadside views;

(h) Land providing desirable public access to existing recreational or conservation land.

g. Use of Common Open Space

(1) Common Open Space shall be identified as such on the Concept Plan, and submitted in accordance with Section 5 herein and, subject to appropriate municipal approvals as needed, shall be dedicated for conservation, active and passive recreation, park purposes, outdoor and/or environmental education, forestry, agriculture, or horticultural uses, natural buffers, maintenance structures necessary for approved uses, utilities, and other facilities necessary for the convenience and enjoyment of the residents of the OSRD tract.

(2) A portion of the Common Open Space may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to the OSRD or adjacent land, if it is determined that such a use is consistent with the purpose and intent of the Open Space Residential Development.

(3) A portion of the Common Open Space may also be used for the construction of leaching areas associated with septic disposal systems serving the OSRD or for water supply wells serving the OSRD, if the Planning Board determines that such use will enhance the specific purpose of Open Space Residential Development and promote better overall site planning. Septic disposal easements shall be no larger than reasonably necessary.

(4) The Common Open Space shall be subject to easements for the construction, maintenance, and repair of utility and drainage facilities serving the OSRD or adjacent parcels.

(5) The Common Open Space shall remain unbuilt upon, except that an overall maximum of five percent (5%) of such land may be subject to pavement and structures accessory to the dedicated use or uses of the Common Open Space.

(6) The proposed use of the Common Open Space shall be specified on a Land Use Plan, and appropriate dedications and restrictions shall be part of the deed to the Common Open Space.

h. Common Open Space Ownership and Maintenance

(1) Common Open Space may be conveyed in whole or in part: (a) to the Town of Framingham (subject to approval by Town Meeting and all other appropriate municipal authorities), and may be accepted by it for park, recreation, open space and/or conservation use; (b) to a nonprofit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and uses to which the Common Open Space is to be dedicated; and/or (c) to a corporation, homeowners association or trust owned or to be owned by all of the owners of lots or dwelling units within the OSRD. If such a corporation, homeowners association, or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units

(2) The proposed ownership of all Common Open Space shall be shown on the Land Use Plan for the OSRD.

(3) If any portion of the Common Open Space is not to be conveyed to the Town of Framingham, then a perpetual restriction of the type described in M.G.L. Chapter 184, sections 31 - 33 (as may be amended), approved by the Planning Board and running to and enforceable by the Town or such department or official who may be delegated this authority, shall be imposed on the use of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with provisions of an OSRD as set forth herein.

(4) Common Open Space shall not be permitted to be divided into individual backyard areas.

(5) At the time of its conveyance, the Common Open Space shall be free of all encumbrances, mortgages or other claims (including pre-existing conservation easements or restrictions), except as to easements, restrictions and encumbrances required or permitted by this OSRD By-Law.

(6) If any portion of the Common Open Space is conveyed to a corporation, homeowners association, or trust of the homeowners of the dwelling units in the OSRD, then, the following shall be required. In order to ensure that the grantee will properly maintain the land deeded to it under this section, the developer shall cause to be recorded in the appropriate Registry of Deeds, a Declaration of Covenants and Restrictions which shall, at a minimum, provide for (a) mandatory membership in an established corporation, homeowners association, or trust, as a requirement of ownership of any residential unit or lot in the OSRD tract; (b) provisions for maintenance assessments of all owners of residential units or lots in order to ensure that the open land is maintained in a condition suitable for the approved uses, and failure to pay such assessment shall create a lien on the property assessed, enforceable by the corporation, association or trust; (c) provision which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law. The developer of the OSRD shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the grantee is capable of assuming said responsibility.

(7) Areas of the Common Open Space which are to remain as naturally-existing woods, fields, meadows, and wetlands shall be maintained in their current state, or managed in accordance with good conservation practices, all in accordance with existing regulations and laws.

(8) If any portion of the Common Open Space is used for the purpose of construction of leaching areas associated with septic disposal systems or for water supply wells serving the OSRD, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the owners of the lots within the OSRD, individually or in common, as applicable, including the requirement that all shared septic tanks to be located within the Common Open Space must be pumped at least every two years by the homeowners' association and must be maintained in accordance with good septic system maintenance practices. Adequate assurances for access rights for maintenance and repair of such systems shall be noted in the affected deeds.

Wells and septic tanks serving individual lots should generally be located on the residential building lot for the house being served, and not on the Common Land.

(9) All required covenants, grants of easements, or conveyance, must be submitted to the Planning Board for review and approval prior to the recording and the deeding out of any of the OSRD lots.

i. Additional Design Criteria for Siting of Residential Buildings and Ways

In addition to the standards set forth above, the following objectives are encouraged in the design of the OSRD:

(1) Buildings and streets should be placed in a manner which maximizes the usable area remaining for Common Open Space.

(2) Buildings should be sited within any woodland contained in the parcel or along the edges of the open fields adjacent to any woodland, in order to enable new construction to be visually absorbed by the natural landscape features.

(3) Buildings should be sited in locations least likely to interrupt scenic vistas, as seen from the public roadways, with significant public road frontage left undeveloped.

(4) Buildings should be sited, where possible, to take maximum advantage of solar exposure.

(5) Buildings shall be sited to avoid sensitive environmental features, including wildlife habitat, wetlands, water bodies, steep slopes or other important site features.

(6) In the vicinity of existing historic structures on public roads, new buildings may be sited in groups close to the road to reflect the traditional locations, patterns and setbacks of nearby existing historic buildings. Such roadside groupings of residential and accessory structures should be compatible with the scale of the surrounding neighborhood. Architectural design (proportions, roof pitches and fenestration) should reflect the character of nearby existing structures.

(7) Buildings should be sited to maximize the number of house lots with open space views and with convenient nearby access to usable open space.

(8) Buildings should be sited so that they will not have an undue adverse impact on the surrounding neighborhood.

(9) Buildings and ways shall be sited in order to provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.

(10) Buildings and ways shall be sited, to the extent feasible, within the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and to preserve the natural features of the site.

5. Special Permit Application and Procedures

An application for an Open Space Residential Development Special Permit shall be submitted as outlined below and shall cover the entire Open Space Residential Development tract.

The applicant is strongly encouraged to meet with the Planning Board for an OSRD Pre-Application Conference, as provided under subsection 5.a., below. Such a Pre-Application Conference is optional and is advisory only.

An application for an OSRD Special Permit shall be accompanied by an OSRD Site Plan, as provided under subsection 5.b., below. The OSRD Site Plan shall contain a plan in the form and with the contents required of a Definitive Subdivision Plan as set forth by the Town of Framingham Subdivision Rules and Regulations. The applications for an OSRD Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time. Once an application for an OSRD Special Permit is properly submitted, the Planning Board shall hold a public hearing and shall grant or deny a special permit based upon the information contained in the OSRD Site Plan.

a. Pre-Application Conference

(1) The applicant, , is encouraged to meet with the Planning Board for an OSRD Pre-Application Conference prior to submitting a formal application for OSRD Special Permit. Materials which should be submitted prior to such Conference include the calculation of dwelling unit density by way of a Density Yield Plan sketch, and an

Existing Conditions Plan, both as described under subsection 5.c. below, as well as one or more preliminary Concept Plan alternatives. These materials should allow confirmation of the agreed upon density yield for a proposed OSRD tract early in the process and should provide an opportunity for informal staff and Planning Board review in the early stages of project design, preferably while various design options are still open. The applicant is advised to provide 10 copies of such plans and any accompanying material to the Planning Board at least 3 weeks prior to the proposed date for a Pre-Application Conference.

b. Procedure for Submission of Special Permit Applications

(1) The applicant shall submit to the Planning Board ten copies of an Open Space Residential Development Site Plan, conforming to the requirements of this Section V.F.5.b., together with one original and one copy of the application form and such documents or other instruments as may be required as set forth in said application. Upon receiving the completed application, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Community and Economic Development Department, the Police Department, the Fire Department, the Department of Public Works, the Board of Health, the Conservation Commission and such other departments and boards as the Planning Board may determine appropriate.

(2) Any such Board or agency to which applications are referred for comment shall make its recommendations and send copies thereof to the Planning Board within thirty-five days of receipt of the referral request from the Planning Board or there shall be deemed to be no opposition or desire to comment. The Planning Board shall not act upon said special permit application until either it has received and considered all reports requested from Town departments and boards, or said thirty-five days from the date of the referral request have elapsed, whichever is sooner.

(3) The Planning Board shall hold a public hearing on any properly completed application. All costs of the notice requirements shall be at the expense of the applicant.

c. Contents of OSRD Special Permit Applications

The application for an Open Space Residential Development Special Permit, shall be accompanied by an OSRD Site Plan prepared by a professional landscape architect registered in Massachusetts, including all of the plans and information below.

(1) An "Existing Conditions (Site Analysis) Plan" (at a scale of 1" = 40'), which shows

(a) the boundaries of the proposed Open Space Residential Development and the area of the OSRD parcel:

(b) identification of all wetlands, waterbodies, floodways and areas within the 100 year floodplain, and land prohibited from development by reason of legally enforceable restrictions, easements or covenants; and the area square footage of the items noted above; and

(c) existing topography, including the location of land with slopes exceeding 25 percent; soil types, including the location of soils subject to slumping; 100 year floodplains; springs, mature trees greater than 12 inches in diameter in all areas where existing vegetation will be considered for alteration under the proposed special permit, and general areas of existing vegetation including treelines and woodlands; and the location of other significant features, including rock outcrops, open fields or meadows, drumlins, scenic views into or out of the property, tracks and trails; and existing streets, structures, including historic structures, fences and stone walls within and contiguous to the site; and existing easements.

(2) A "Concept Plan" for the proposed OSRD (at a scale of 1" = 40') which shows

(a) the intended location, ownership and use(s) of the proposed Common Open Space, and all improvements and structures intended to be constructed on the proposed Common Open Space;

(b) the approximate intended location of each residential building, accessory structure and facility and of the building envelope on each lot;

(c) the approximate location of all lot lines, with approximate areas and dimensions, with lot numbers assigned to each lot in sequence;

(d) the identification and location of all significant natural and manmade features of the site to remain, and to be removed under this proposal;

(e) the intended location and layout of all roads and accessways, with approximate finished grades, and street widths;

(f) the proposed system of drainage and the methods for providing water distribution and sewerage facilities, including easements; and

(g) a table containing the total area of the OSRD; the total area of the proposed Common Space and its percentage of the OSRD area; and the total area of wetlands and its percentage of the OSRD area and its percentage of the proposed Common Space.

(3) A "Density Yield Plan" sketch (at a scale of no less than 1" = 100') showing how development of the parcel would be achieved by a conventional subdivision plan, in accordance with all applicable land use regulations, and identifying major site features, as provided under Section V.F.4.c.(1) herein, to determine the maximum allowable density under this special permit.

(4) A "Locus Plan" (at a scale of 1" = 100'), which shows the relation of the proposed OSRD streets, utilities and easements to the existing systems, and shows the relation of the proposed OSRD Common Open Space to existing open space areas and corridors for a distance of 1,000 feet beyond the project boundaries, and which shows the relation of the approximate intended location of residential structures and other buildings in the proposed OSRD tract to all lots, identified by ownership, and all existing structures for a distance of 300 feet beyond the project boundaries.

(5) Standard information, including a Title Block with the subdivision or OSRD name, date, scale, legend, and title of the plan; a Planning Board Signature Block at approximately the same location on each page, names and addresses of owner(s), developer(s), and subdivider(s), and name, address, signature(s) and seal(s) of the surveyor or engineer and of the landscape architect responsible for preparation of the plans; and a north arrow; all of which should be located similarly on each plan submitted; as well as identification of parcel by sheet, block and lot number from the Assessor's Maps; identification of the parcel as legally recorded; identification of owners of abutting lots, including owners of those lots separated only by a street from the proposed parcel, as determined from the most recent Assessor's tax records, and as certified by the Assessors of the Town of Framingham; and a zoning table showing the development dimensional standards both under existing zoning and under the proposed Special Permit, along with the dimensions being considered for the proposed development; and the maximum allowable density as obtained under item (3) above.

(6) Copies of all instruments to be recorded with the Open Space Residential Development special permit, including the proposed deed(s) for the Common Open Space, the articles of organization and bylaws of the corporation or trust to be organized to own the land, and the language of all restrictions to be imposed on the land.

(7) A Management Plan for the Common Open Space to be incorporated in deed covenants to be executed with purchasers of land or other interests in the OSRD.

(8) A narrative description of the project, including the development concept, intended uses of the Common Open Space, ownership and maintenance of the Common Open Space, and an evaluation of its value to the Town with respect to protection of natural resources, open space and recreation, and accessibility to the Town, a reclamation plan in the event the parcel includes previously disturbed land, a discussion on how the development meets the design standards and criteria under this bylaw, and a description of the surrounding neighborhood and the impact of this proposal on the neighborhood.

(9) The Planning Board may request additional information and data about site environmental conditions in order to assist it in establishing that the Concept Plan Standards and Special Permit Criteria of this section have been met.

d. Special Permit Criteria

(1) In evaluating the proposed OSRD, the Planning Board shall consider the general purpose and objectives of this Section; the existing and probable future development and use of surrounding areas; the appropriateness of the proposed layout of streets, ways, lots and structures; and the design and use of the Common Open Space in relation to both the proposed dwelling units in the OSRD, and the important natural features of the proposed OSRD tract of land.

(2) The special permit shall be granted only if the Planning Board finds each of the following:

(a) The proposed development shall be consistent with the Purpose and Intent of an Open Space Residential Development as described in Section V.F.1. herein.

(b) The proposed development shall comply with the requirements, standards, and objectives of this Section V.F., and other applicable requirements of this Zoning By-Law.

(c) The proposed development shall be in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood.

(d) The proposed development shall provide for efficient use and delivery of municipal and other services and infrastructure.

(e) The proposed development shall not create a hazard to abutters, vehicles or pedestrians.

e. Special Permit Conditions

As a condition of approval, the Planning Board may require such changes in the proposed development plans and may impose such conditions and safeguards, including bonding, to secure the objectives of this bylaw, and to protect the health, safety and welfare of the inhabitants of the neighborhood and the Town of Framingham.

6. Administration and Relation to Subdivision

a. Compliance with Subdivision Control Law Required

Planning Board approval of a special permit under this Section shall not substitute for compliance with the subdivision control law, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for Planning Board consideration under the law.

b. Change in Plans After Grant of Special Permit

No substantial variation from the approved OSRD Concept Plan shall be permitted in the Subdivision Plan. Following approval of the Subdivision plan, no further change in the location or use of the Common Open Space shall be permitted. No change in any aspect of the approved Subdivision Plans shall be permitted unless approved in writing by the Planning Board. Once an OSRD special permit has been obtained by the applicant, a new or amended OSRD special permit, including the requisite public hearing, will be required if the Planning Board determines any proposed change between the Definitive Plan and the OSRD Concept Plan to be substantial.

c. Limitation of Subdivision

No land shown on a Definitive Plan for which an OSRD special permit is granted under this Section may be further subdivided, unless such special permit lapses or is rescinded. Exceptions may be made for minor shifts of a lot line between residential lots within the OSRD tract, but under no circumstances may the lot lines of the Common Open Space be amended or may additional lots be created. A notation to this effect shall be shown on the Definitive Plan for an area which makes use of this special permit. Upon the written request of the applicant/owner for a recession of the special permit, the Planning Board will automatically rescind an OSRD special permit, on the condition that development of the site has not yet commenced.

d. Building Permits

The Applicant shall provide for Engineering Department review and approval plans prepared and stamped by a Registered Engineer or Land Surveyor showing proposed house location, elevations, grades and any foundation drains prior to the issuance of building permits for each lot. Concurrent with the submission of this plan a composite subdivision lot grading plan showing the proposed grading for the individual lot for which a permit is being issued shall be submitted.

e. Rules and Regulations

The Planning Board may adopt and amend reasonable rules and regulations for the administration of this Section, including a schedule of fees. As the OSRD special permit process will occur simultaneously with a definitive subdivision plan, the application fee for both the definitive subdivision review and for the OSRD special permit shall be equal to the current fee required under a definitive subdivision review fee. A portion of this fee may be assessed upon submission of the Pre-Application Conference materials. Such fee shall be deducted from the total

OSRD special permit/definitive subdivision fee noted above. Direct costs associated with required legal notices shall be charged to the Applicant.

G. MIXED USE REGULATIONS

1. Purpose and Intent

The purpose and intent of these Mixed Use Regulations is to provide an opportunity for Mixed Use development with a residential component within a livable urban environment which supports the commercial revitalization of the Town's commercial areas and encourages the adaptive reuse of existing buildings.

2. Applicability

These regulations shall apply to the development or redevelopment of properties for Mixed Use or for Mixed Use Complex, which shall collectively be referred to as Mixed Use development.

3. Mixed Use Development Standards

Mixed Use development shall be designed in accordance with the following standards:

a. Conforming Lot and Structure

The lot and structure shall conform to the dimensional regulations for Mixed Use development applicable to the zoning district, as provided under Section IV.E.2 Table of Dimensional Regulations

b. Parking Requirements

Off-street parking shall be provided in accordance with the requirements set forth in Section IV.B. Special Provisions for parking relief, as provided under Section IV.B.7., may be considered, including exemptions from required number of parking spaces and proximity requirements, as applicable, but the requirement for number of parking spaces assigned to residential uses may not be reduced below 1.25 parking spaces per residential unit. The applicant shall demonstrate that the parking to be provided shall be adequate for the uses proposed. Conditions for approval of a special permit under Section IV.B.7, for a reduction to the required number of parking spaces, may include, at the discretion of the Planning Board, a contribution to a municipal parking program and/or support for public transportation or other transportation demand management programs. Such contribution shall be directly related to the reduction requested, and shall not exceed 2 percent of the development costs attributed to the residential portion of the proposed development. Such contribution shall be credited to the development under a Site Plan Review approval.

c. Open Space and Recreation Enhancement

A minimum of 200 square feet of usable on-site outdoor open space or dedicated and usable common indoor recreation space for use by unit residents shall be provided for each dwelling unit proposed within a Mixed Use development project. An applicant contribution to a program of off-site public improvements in the area of the proposed development, as set forth below, may be considered by the SPGA in partial satisfaction of this requirement. An applicant may contribute up to 1.5 percent of the development costs attributed to the residential portion of the proposed development to a program of off-site public open space, pedestrian improvements, public amenities, or community and cultural enhancements, in order to enhance the quality of life for residents of the proposed development and the general public. Such contribution for off-site improvements shall be at the discretion of the Planning Board and shall be credited to the development under a Site Plan Review approval.

d. Residential Composition

Residential composition in a proposed Mixed Use development shall be comprised of studios, one-bedroom units and two-bedroom units only. In no case may other rooms in a unit be converted to additional bedrooms. Dwelling units within a Mixed Use development may measure no less than 600 square feet. No more than twenty percent (20%) of the units in a Mixed Use development proposal may consist of studio units. No more than three individuals unrelated by birth, marriage or adoption may occupy a dwelling unit in a Mixed Use development. The Planning Board may require a stipulation of said limit on unrelated individuals be included within all leases, condominium documents, protective covenants and other related documents.

e. Separation between Residential Uses and Non-Residential Uses

Residential uses and non-residential uses in a Mixed-Use development shall be physically separated. Residential uses shall have separate and distinct entrances from non-residential uses.

f. Community Impact

A Community Impact Assessment, as set forth under Site Plan Review, Section VI.F.5.g.(4), shall be required of all proposed developments under this special permit, regardless of project size, and the SPGA shall consider such Assessment in its review of a proposed Mixed Use development.

4. Building Permit Limitations

a. Following special permit for use, Site Plan Review and other regulatory processes, and in accordance with an SPGA Decision, the Building Commissioner may issue building permits for Mixed Use development for a maximum of 300 residential units for Mixed Use development per calendar year (with no rollover from a previous year). Of these 300 permitted residential units per year, no more than 250 residential units may be permitted for a specific development application in a given year. The Building Commissioner may not issue building permits for additional residential units in Mixed Use development once the number of such units for which building permits have previously been issued reaches three percent (3%) of the total number of dwelling units in the Town of Framingham. Any changes to the Building Permit Limitations, as set forth herein, shall require approval by Town Meeting.

b. Purpose

The purpose of the limitation (or cap) on the number of dwelling units permitted in a Mixed Use development is to promote orderly growth in a planned manner so that it will not unduly strain the community's ability to provide basic public facilities and services for an expanded residential population.

c. Applicability

This section shall apply to the issuance of all building permits for construction of dwelling units located in a Mixed Use development for which a special permit decision of the Planning Board approving such development was filed with the Town Clerk on or after the time of the adoption of this by-law.

d. Administration

Building permits for new dwellings will be available starting on January 1 of each calendar year. Permits will be issued on a first-come, first-served basis. An applicant will not be issued a building permit for more units than has been specified in a Special Permit for Mixed Use by the Planning Board. Mixed Use development projects may be phased in over more than one year.

Applications for Mixed Use development shall be denied by the Building Commissioner when the limitation on number of dwelling units has been reached for a particular calendar year. Upon denial, an applicant may file a written request to the Building Commissioner to have the application automatically resubmitted to the Building Commissioner on January 1 of the subsequent calendar year or an earlier date, should a permit for a sufficient number of residential units under Mixed Use development become available sooner. The effective date of the application shall be the date the application is accepted for resubmission, not the original application date, and the applicant shall be subject to the State Building Code effective as of the date of building permit issuance.

Denied applications shall be taken up by the Building Commissioner in the order in which the written request for automatic resubmission has been received by the Building Commissioner, taking into account the availability of building permits for the number of residential units requested. Resubmitted applications must be complete and Special Permits must not have lapsed.

Should any building permits issued for an approved Mixed Use development for a given calendar year be withdrawn or lapse within the same calendar year, other applicants with a written request for automatic resubmission shall be taken up by the Building Commissioner as set forth above. Such permits may be issued in the same calendar year provided that the building permit limitations of this Section are not exceeded for that calendar year.

5. Planning Board Mixed Use Development Waivers by Special Permit

The Planning Board may, by special permit, grant waivers to the Mixed Use Development Standards, as set forth under Section V.G.3. herein, and the Dimensional Regulations for Mixed Use development, as set forth under Section IV.E.2. herein, for Mixed-Use development. Such Special Permit for Mixed Use Development Waivers shall be granted only if

the Planning Board makes the specific required findings, in writing, as set forth under Section VI.E.3., as well as the following finding. The Planning Board must also find that the proposed project with the waived requirement shall not be substantially more detrimental to the neighborhood than the project without the waiver. As a basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic and parking; municipal services and facilities; and the character of the neighborhood including environmental and visual features.

H. AFFORDABLE HOUSING

1. Purpose and Intent

The purposes of this By-Law provision are to:

a. Ensure that all development or re-development of ten or more dwelling units generates a minimum of ten percent (10%) affordable housing;

b. Ensure that such housing remains affordable over the long term, and that, to the extent allowed by law, preference is given to Framingham residents;

c. Maintain an economically integrated community by promoting a mix and distribution of affordable housing opportunities throughout Framingham.

2. Definitions

Affordable Housing Unit (AHU) - A residential unit that is restricted in its sale, lease or rental to a qualified income-eligible household at specific price limits that qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing**.**

Qualified income-eligible household - A household with combined incomes that do not exceed 80% of the median income for the Boston Metropolitan Statistical Area, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

Re-development - The creation of ten or more new dwelling units in, or added to, an existing building.

3. Applicability

An Affordable Housing Special Permit under this section shall be required from the Planning Board for all development or re-development of ten or more dwelling units on one or more contiguous parcels, whether such units are proposed under a special permit process pursuant to G. L. c. 40A sec. 9, or proposed pursuant to "the Subdivision Control Law" G. L. c. 41 sec. 81K to 81GG inclusive, including divisions of land that do not require subdivision approval.

4. Mandatory Provision of Affordable Units

The Planning Board shall require as a condition of approval of any development or re-development that the applicant for special permit approval complies with the obligation to provide affordable housing pursuant to this By-Law as provided below.

a. Units to be Sold: The applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten. The cash payment shall be equal to 3% of the actual sales price of each subsequent dwelling unit over the multiple of ten and shall be paid to the Town at the closing of each unit.

For example, a development or re-development of ten dwelling units shall require the provision of one AHU; 20 dwelling units shall require two AHU's, etc. Sixteen dwelling units shall require one AHU and a cash payment of 3% of the sales price of the next six units, which shall be paid to the Town at closing; 24 dwelling units shall require 2 AHU's and a cash payment for the next four units, which shall be paid to the Town at closing.

b. Units to be Rented: The Applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten. The cash payment for fractional units shall

be one month's anticipated rent of such units to be paid at any time prior to any occupancy permit for more than ten units.

c. Provision of Extra Qualifying Units: Provision of AHUs in excess of the requirement of this by-law shall make any cash payment for a fractional unit unnecessary.

d. Handling of Cash Payments: Cash payments under this Section V.H. shall be maintained in a separate account by the Framingham Economic Development and Industrial Corporation. Said funds shall be available only to purchase, develop, construct, or rehabilitate affordable housing units or to assist income-eligible buyers with the purchase of AHUs in Framingham.

e. Non-Avoidance by Phasing: A development shall not be segmented or phased in a manner to avoid compliance with this By-Law. The Planning Board shall not approve any application for development or re-development that results in ten or more new dwelling units if the land or parcels of land were held in common ownership (including ownership by related or jointly-controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section V.H. Affordable Housing. This By-Law shall be enforceable also against purchasers of land previously held in common ownership with land that received, after the date of adoption of this Section V.H, approvals or permits for development, to the effect that units developed under such previous development shall be counted toward the calculation of number of units under Sections V.H.4.a. and V.H.4.b. herein.

f. Location of AHUs: The required AHUs may, with Planning Board approval, be provided by use of the options stated in the following table. All of the required AHU's shall be newly created AHU's.

Option 1	Provide the required AHU on the locus subject to the special permit.
Option 2	If the applicant can demonstrate that building the AHU's on the locus will make the development "uneconomic* ", they may purchase and rehabilitate or build the AHU's off site but within a residential zoning district which is the same as that of the proposed project.

* as defined in MGL ch. 40B § 20

5. Required Characteristics of Affordable Housing Units

a. Siting: All on-site AHUs constructed or rehabilitated under this By-Law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be equally accessible to public amenities, such as open space, as the market-rate units.

b. Design and construction: AHUs within market-rate developments shall be integrated within the development and shall be compatible in exterior design, appearance, construction and quality of materials with the other dwelling units being proposed. AHUs provided under Options 2 shall be compatible with the neighborhood.

c. Rights and Privileges: The owners and tenants of market-rate dwelling units and the owners and tenants of the AHUs shall have the same rights and privileges to access any amenities available in the development.

6. Types of Affordable Housing Units

AHUs may be of the following types: single family dwellings, two-family dwelling units, three-family dwelling units, multi-family dwelling units, cluster development dwelling units, mixed-use development dwelling units, planned unit development dwelling units, and such other types of dwelling units as may be allowed in the future and approved pursuant to the Zoning By-Law.

7. Marketing Plan for Affordable Units

Applicants under this By-Law shall submit to the Planning Board a marketing plan or other supporting material for approval by the Department of Planning and Economic Development and the Planning Board. Said marketing plan shall describe how the affordable units will be marketed to potential homebuyers or tenants, and shall include a description of the process to be used for selecting qualified occupants. The marketing plan shall describe how the applicant will accommodate local preference requirements established by the Town, if any, in a manner that complies with the non-discrimination in tenant or buyer selection guidelines of the Local Initiative Program of the Commonwealth or successor program.

8. Affordable Housing Regulations

Pursuant to G.L. c.40A, sec. 9, the Planning Board shall adopt and maintain a set of Affordable Housing Regulations that contain the necessary policies, procedures, and requirements to implement the provisions of this Section V.H.

9. Restrictions

a. Restrictive documents: To assure their affordability, AHUs shall be rented or sold subject to applicable deed covenants, contractual agreements and other mechanisms, acceptable to the Town and established in accordance with the standards of the Commonwealth's Department of Housing and Community Development (DHCD) or successor or additional programs adopted by the Commonwealth or its agencies, restricting the use and occupancy, rent level, and sales price of such AHUs.

b. Term of Use Restriction: A Use Restriction shall ensure that AHUs created under this section shall remain affordable in perpetuity or for as long a period as is allowed by law. All such restrictive documents shall be enforceable and renewable by the Town pursuant to applicable law.

c. Chapter 40B Inventory of Subsidized Housing: An AHU shall be restricted in its initial and any subsequent sale, lease or rental to a qualified income-eligible household at a specific price limit that will qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing.

d. Selection of Eligible Tenants and Homeowners: There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for affordable homeownership units. The Town of Framingham may contract with a quasi-public, public or private entity, experienced in affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.

e. Income and Asset Limits: For tenants and purchasers household income shall not exceed 80% of area median income based on household size as determined by HUD. Tenants and purchasers shall also be required to demonstrate that total household assets other than income are not so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.

f. Occupancy: The deed covenants for AHUs shall require, whether the unit initially is sold or rented, that the occupant of that unit must be an income-qualified person as defined in this Section V.H. This provision shall not prohibit a unit initially designated as owner-occupied from being leased, so long as it is a lease qualifying under the provisions hereunder and the occupant is an income-qualifying person.

10. Enforcement

a. Loss of Eligibility Status: Nothing in this section shall be construed to permit eviction of a home owner or tenant of an AHU due to loss of his/her eligibility status during the time of ownership or term of lease or rental.

b. Transfer of AHU: The restrictions governing an AHU shall be enforced upon resale, re-rental or renewal of lease of the AHU. For owner-occupied units, the use restriction shall ensure that units may only be resold to income-qualified buyers consistent with the then applicable income limits established by the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

c. All Restrictions Remain in Effect: Nothing in this section shall be construed to permit any deed restriction, covenant, agreement or other mechanism restricting such items as the use and occupancy, rent level, and resale price of AHUs, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law. It is intended that the restrictions required herein shall survive, to the limit allowed by law, including, but not limited to, bankruptcy and foreclosure.

d. Timing of commitments: All contractual agreements required hereunder and any documents necessary to insure compliance with this section shall be approved as to content by the Planning Board and Town Counsel prior to the issuance of any occupancy permit for newly constructed, rehabilitated, or rental units.

e. Reporting: The Town shall publicly report annually (1) whether rental units are rented to low or moderate income households at rents not exceeding the maximum rents set forth above, (2) whether ownership units continue to be occupied as the domicile and principal residence of the owner, and (3) in the event of a resale, whether the unit has been resold to a low or moderate income buyer for no more than the maximum permissible resale price and subject to a new or continued Use Restriction. The Department of Housing and Community Development shall be provided a copy of the report. In the event of noncompliance the Town shall take prompt action to restore compliance, including litigation if necessary.

f. Approval of Form and Content of Legal Documents: The project applicant shall prepare all deeds and legal instruments required to comply with Section V.H. herein, and such documents shall be in a form satisfactory to Town Counsel. The applicant shall reimburse the Town for the reasonable legal expenses incurred by Town Counsel in reviewing or revising said deed and legal instruments.

g. Timing of Provision of AHUs: As a condition of the issuance of a special permit under this Section, the Planning Board shall establish a time schedule for the provision of the AHUs or payment in relation to the market-rate dwelling units.

h. Recording of Restrictions: The special permit decision and all restrictive covenants required thereunder shall be recorded, as applicable, at the Registry of Deeds or Registry District of the Land Court prior to the endorsement of any subdivision plan for the development and before the issuance of any building permit for the development.

i. Content of Restrictions: Where the Planning Board endorses a subdivision of land that contains tracts of land not divided into building lots, but which land could later trigger the provisions of Section V.H.4.e. herein, the covenant for such subdivision shall note the potential for the provisions of Section V.H.4.e. to apply to a later development.

I. ACTIVE ADULT HOUSING

1. Purpose

This by-law is intended to provide housing for adult residents age 55 and older and designed to protect significant land, water, scenic, wildlife habitat and historic resources and to mitigate the impacts of residential development on municipal services.

2. Definitions

The following terms shall be specifically applicable to these Active Adult Housing regulations and shall have the meanings provided below.

Active Adult Housing: A group of dwelling units for older adult residents of which at least one resident per dwelling is 55 years of age or older within the meaning of M.G.L. c.151B, sec. 4(6) and 42 U.S.C. Sec. 3607(b)(2)(c), and in accordance with the same.

Developable Site Area: The Developable Site Area shall be calculated by subtracting from the lot or parcel area all undeveloped land wich is:

a. A wetland, which shall mean a "freshwater wetland" as defined in M.G.L. Chapter 131, Section 40 and the Framingham Wetlands Protection Bylaw, Article 18 of the General Bylaws;

b. A Floodplain District as defined in Section III.A.;

c. All areas of the site with slopes natural and unaltered greater than fifteen percent (15%) over a horizontal distance of 100 feet, as measured perpendicular to the contour line;

d. Any area that may not be built upon due to infrastructure restrictions such as easements for electric, gas, water or similar utility, or DEP regulations related to water supply;

e. Fifteen percent (15%) of the entire parcel for roads and impervious surface;

f. The common open space area as defined herein;

g. Rock or ledge outcropping.

The Developable Site Area shall not include land in another zoning district in which the principal use of the lot or parcel is not also permitted or land in another municipality.

Exclusive Use Area (EUA): The outside area adjacent to each residential unit, which is the designated area on the approved Active Adult Housing Plan for the exclusive use of the occupant of that unit.
Senior: An individual who is 55 years of age or older.

3. Applicability

a. As the SPGA, the Planning Board may grant a special permit for the development and construction of an Active Adult Housing Development in the Single Residence Districts in accordance with this Section, Section VI.E. herein and MGL, Ch. 40A, Sec. 9., provided that no variances have been issued by the Zoning Board of Appeals from the requirements of this Section V.I.

b. Any change in the number of lots, dwelling units or bedrooms, the layout of the ways, any significant changes in the common open space, its ownership or use, or in any conditions stated in the original special permit shall require application for a new or modified special permit in accordance with the provisions of this Bylaw.

c. Where these regulations differ from or conflict with other provisions of the Zoning Bylaw or the Subdivision Rules and Regulations, the provisions stated within this Section V.I. shall prevail.

4. Special Permit Application and Procedure

a. The Planning Board shall be the special permit granting authority for the issuance of an Active Adult Housing Special Permit. Such special permit applications shall be submitted, considered, and issued only in accordance with the provisions of this Section V.I. and VI.E., the Rules and Regulations Governing the Subdivision of Land in the Town of Framingham (Subdivision Rules) and MGL, CH. 40A, sec. 9 and all other information that may be required by the Planning Board under its Rules and Regulations as may be adopted.

b. Any person who desires a Special Permit for an Active Adult Housing Development shall submit an application and site plan prepared by a qualified professional registered in the Commonwealth of Massachusetts, such as a Registered Professional Engineer, a Registered Architect, and a Registered Landscape Architect, that meets the requirements set forth herein and in Sections 1, 2, 3, 6 and 7 of Subdivision Rules and Section VI.E.3.. To the extent permitted by law, all applications and permits required under this By-Law may be considered concurrently.

c. Based upon the scope of the project and physical characteristics of the parcel, the Planning Board may require additional information or a supplemental impact statement, such as additional geological investigation or high intensity soils mapping of the site. The Planning Board, at its sole discretion, may determine that a proposed project's size, scale, complexity, potential impact or use of the land warrants the use of outside consultants. Such consultants shall assist the Planning Board, for review and comment prior to action by the Planning Board in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, providing legal counsel for decisions and covenants, and monitoring or inspecting a project or site during construction or post-construction for compliance with the Board's decisions or regulations. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant in accordance with Article 16 of the Planning Board Rules and Regulations.

d. Any person intending to submit an application for an Active Adult Housing Development shall have a pre-application conference with the full Planning Board that has been noticed by a community notice sign posting on the property, in the local newspaper at the Applicant's expense and by mail to abutters and to town meeting members in the precinct at which time the applicant shall describe the proposed plan and any impacts to the parcel of land that will be required in order to file a complete application. If the Active Adult Housing Development is proposed to have private wells and sewage disposal systems on site, the Applicant shall submit the proposal to the Board of Selectmen for the purpose of determining by majority vote whether to allow a well or septic system on the site. The Board of Selectmen acting as the Water and Sewer Commissioners shall hold a public hearing within 45 days of said submission. No tree removal, no utility installation, no ditching, no soil or percolation testing, no well testing, no grading or construction of roads (temporary or otherwise), no grading of land or lots, no excavation, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the proposal has been reviewed at the pre-application conference and the Board has given its approval for the required work.

e. The Planning Board, at its discretion and based upon the pre-application conference and preliminary assessment of the scale of the development proposed, may modify or waive the application requirements for submission in the Subdivision Rules. Such modifications or waivers from the application submission requirements shall be requested in writing with

supporting reasons. Any such preliminary waivers granted at the pre-application or preliminary level of review is a preliminary assessment by the Planning Board and such waivers shall not be binding upon the Planning Board at the Definitive Subdivision Review and/or Special Permit Review.

5. Age Restriction

Each dwelling in an Active Adult Housing Development shall be subject to an age restriction, and said age restriction shall be part of the deed, deed rider, restrictive covenant or other documents of record that shall be recorded at the Registry of Deeds of the Land Court. The age restriction shall run with the land and shall be enforceable by any or all of the owners of dwelling units in the Active Adult Housing Development or by the Town of Framingham.

a. Such age restriction shall limit the dwelling units to occupancy by adults only, one of whom must be a senior, and shall provide for guest visitation rights for minor children up to 60 days per calendar year.

b. Marketing of units in an Active Adult Housing Development shall comply with all Fair Housing Laws and shall include, to the extent legally allowable, a strategy for marketing units to Framingham residents and their immediate families.

c. In the event of the death of the qualifying owner/occupant(s), or foreclosure or other involuntary transfer of a unit in an Active Adult Housing Development, an age restriction exemption shall be allowed for the transfer of the unit to another eligible household for at least two year.

6. Allowed Uses

The following uses shall be allowed in Active Adult Housing Special Permit: detached dwellings for one family dwelling, two-family dwellings, and multifamily dwellings up to three units per building; accessory uses typically associated with residential uses including, but not limited to, clubhouses, swimming pools, tennis courts, cabanas, storage and maintenance structures, garages, common facilities and uses as set forth herein; and uses allowed on the Common Open Space, as set forth herein. More than one building may be located on a lot.

7. Active Adult Housing Dimensional Regulations

Active Adult Housing shall comply with the following dimensional regulations.

a. Table of Dimensional Regulations

Minimum Parcel Area where both municipal sewer and municipal water are available.	10 acres
Minimum Parcel Area where either municipal sewer or municipal water are not available.	20 acres
Minimum Common Open Space Area Dedication.	30% of the entire parcel.
Minimum frontage of the Parcel.	100 feet
Minimum setback of buildings, structures, stormwater facilities and paved areas from all lot lines, but excluding EUAs, access driveways and walkways.	I. 75 feet from the side and rear setback from the parcel property lines. II. 100 feet from the right-of-way of a public street. III. 200 feet from the right-of-way of a designated Scenic Road.
Maximum height of buildings and structures.	2 stories/30 feet
Maximum footprint of any building. Unit garages whether attached or detached shall be included in the footprint of the building.	6,000 square feet for one-story building 4,000 square feet for two-story building
Maximum Parcel Coverage by buildings.	R-4 15% R-3 25% R-2 30% R-1 35%
Minimum Exclusive Use Area (EUA) per dwelling unit.	400 square feet
Maximum dwelling units per building.	3 dwelling units per building

Maximum Number of Bedrooms per dwelling unit.	2 bedrooms per attached dwelling unit. 3 bedrooms per detached dwelling unit. The Applicant shall submit interior building plans to demonstrate compliance with the maximum allowable number of bedrooms per dwelling unit.
Maximum Number of Bedrooms.	8 bedrooms per acre of Developable Site Area. In areas not served by public water and/or sewer the Planning Board may reduce the maximum number of bedrooms.

b. Construction Limitations: Buildings, structures, roadways and driveways may be built only on the Developable Site Area on slopes natural and unaltered of fifteen percent (15%) or less. No dwelling unit shall be constructed above another dwelling unit.

c. Perimeter Buffers: A minimum of seventy-five foot wide buffer between an Active Adult Housing Development and abutting properties is required around the entire parcel perimeter; provided, however, the entrance roads and pedestrian paths may cross the buffer. Where the perimeter buffer is wooded, it shall remain in a natural undisturbed state to preserve the visual character of the parcel being developed and to minimize impacts to abutting properties. The Planning Board may require no-cut easements or conservation restrictions within the perimeter buffer. Suitable landscaping materials and fencing may be required by the Planning Board to provide screening of the development where the Planning Board finds that the natural vegetative buffer does not provide sufficient screening for abutting parcels.

d. Minimum separation of Buildings: Thirty feet of separation where the separation is between the sides of two buildings; 80 feet separation where the separation is between the backs of two buildings; and 50 feet of separation where the separation is between the side of one building and the back of another building. The Planning Board may reduce this requirement, by waiver, where topography or landscaping creates sufficient visual separation and privacy, and where the reduction results in better overall site design. The siting of building with the backs of two buildings facing each other shall be discouraged.

8. Hydrological Impact Study and Nitrate Loading Analysis

Prior to the issuance of a special permit, the Applicant shall be required to provide a Hydrological Impact Study and Nitrate Loading Analysis for any proposed on-site water and/or sewage disposal systems, individual, common, or shared, to demonstrate that the development will have an adequate water supply and sewerage collection system and shall not have an adverse impact on the quantity and quality of any existing surface or groundwater resources or existing water supplies and wells. The location of all wells and septic systems on abutting properties shall be reviewed in the study and identified on the developmental plan. The analysis shall conform to the requirements of the requirements of the Massachusetts Department of Environmental Protection and be subject to peer review by a licensed hydrologist, expert in the field of evaluating these impacts.

9. Architectural Design Standards

Architectural style and siting of Active Adult Housing buildings shall be consistent to the extent feasible with the prevailing character and scale of buildings in the neighborhood. To provide visual interest and avoid monotony, the architecture shall be designed to provide variation through the use of color, building materials, details, breaks in roof and wall lines, porches, detailed cornices and substantial roof overhangs, dormers, screening and/or other architectural elements. Traditional materials such as masonry and wood are strongly encouraged for the exterior facades. Windows and exterior doors shall be consistent and compatible with the materials, style and color of the building, and shall be arranged to give the façade a sense of balance and proportion.

All dwelling units in an Active Adult Housing Development shall be designed and constructed to be adaptable with only minor structural changes to meet the requirements for Group 1 residences as set forth in the Massachusetts Building Code, 521 CMR (Architectural Access Board), as amended. Such dwelling units shall have at least one exterior entrance at ground level. Residential parking spaces shall be located as defined in Section 11 herein.

10. Parking Requirements

One vehicular parking space shall be required per principal dwelling unit with one bedroom and two vehicular parking spaces shall be required per principal dwelling unit with two bedrooms. In addition, one vehicular parking space shall be required for every four dwelling units for visitor parking. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, may be required, as determined by the Planning Board, in off-street parking areas. No single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped.

11. Parking and Garage Design Standards

Residential parking spaces shall be located in reasonable proximity to the dwelling or in attached garages. One or two car parking garages attached to individual dwelling units shall be encouraged. Such garages shall be designed so as to complement and not dominate the building design and site layout. They shall not obscure the front of the unit or building and may extend no more than six feet beyond the face of the building, unless the Planning Board waives this requirement. Freestanding garages shall be located to the side or to the rear of the building or units.

12. Common Open Space

a. At least fifty percent (50%) of the Common Open Space shall meet the criteria for Developable Site Area. The Common Open Space Area shall not include the area of roadways, Zone 1 of a public water supply, dwelling units or Exclusive Use Areas.

b. The Common Open Space shall be designed in accordance with the requirements of Section V.F.4.f. (2) through (7) inclusive.

c. The Use, Ownership and Maintenance of the Common Open Space shall be in accordance with the requirements of Section V.F.4.g. and h.

d. Common Open Space located outside the Developable Site Area, used for passive recreation and owned or controlled by an entity other than the Homeowner's Association shall be accessible to the public.

e. Wetlands as determined by the Conservation Commission, shall not qualify as Open Space.

f. The Open Space shall be left in an undisturbed state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board.

13. Common Facilities

Common facilities may include accessory uses to the dedicated Use or Uses of the Active Adult Housing Development, including pavement and structures, provided that such a use enhances the general purpose of this By-Law and enhances better site and community planning. Such uses may include, but are not limited to, a clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures and such facilities as common leaching areas associated with septic disposal or sewage systems serving the Active Adult Housing Development, pumping stations and appurtenances, storm water drainage systems and infrastructure, private streets, driveways, sidewalks, paths and common parking areas. Such uses and above ground common facilities shall generally be located outside of the dedicated Common Open Space, and shall be suitably landscaped to enhance the appearance of the facility. Underground pipes and utility easements may, however, extend through the Common Open Space, where necessary, to make proper connections and prescribed loops to existing infrastructure.

14. Homeowner's Association

The applicant shall establish a homeowner's association for the Active Adult Housing Development. The homeowner's association shall operate in accordance with a Homeowner's Association Agreement which shall be submitted to the Planning Board and Town Counsel for review and approval prior to its recording or the sale of any unit or the release of the dwelling units. The homeowner's association documents shall provide for the maintenance in perpetuity of the common area lands and Common Open Space, the drainage system of the development including any detention or retention basins, common sewage facilities, common leaching areas, common wells, streets and sidewalks, paths, common recreation and maintenance facilities, common parking structures and parking lots, and other common use areas and facilities within the development. Snow-plowing within the project limits and rubbish disposal will be, and shall

also remain in perpetuity, the responsibility of the project owner/developer or subsequent homeowner's association, and not the Town.

15. Conditions of Approval of Special Permit

The Planning Board shall not approve any application for a special permit unless it finds in its judgment that all of the following conditions are met:

a. those conditions prescribed in Section VI.E.3.a. of the Framingham Zoning By-Law;

b. a Definitive Subdivision Plan Approval for the parcel has been received and

c. where there is no municipal water and/or sewer, the application has been approved by the Board of Health, prior to the vote of the Planning Board;

d. where there is no municipal water and/or sewer, the Planning Board may at its discretion require the applicant to receive approvals from the Massachusetts Department of Environmental Protection, prior to the vote of the Planning Board.

In approving a special permit, the Planning Board may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, including but not limited to those prescribed in Section VI.E.3.b. of this Bylaw.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a special permit.

16. Limitation of Subdivision

No lot shown on a plan for which a permit is granted under this section may be further divided so as to reduce the area of any lot for the purpose of creating an additional building lot(s) and a condition to that effect shall be shown on the recorded plan and on each deed conveying building lots on said plan.

17. Building Permit Limitation

The Building Commissioner shall not issue building permits for Active Adult Housing developments once the number of such units for which building permits have previously been issued reaches two percent (2%) of the total number of dwelling units (26,734) in the Town of Framingham as documented in the 2000 Census. Any changes to the Building Permit Limitation, as set forth herein, shall require approval by Town Meeting.

18. Enforcement

In accordance with the provisions of M.G.L.c.40A, Sec. 7, the Town may enforce the conditions imposed on the exercise of special permits under this Section to the fullest extent permitted in equity or law. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, or if the applicant shall otherwise fail or neglect to comply with the conditions imposed on the exercise of the special permit, the Building Commissioner may issue an order of compliance or stop order to the applicant or his agent or take other enforcement action as allowed by law and this Zoning By-law..

J. DRIVE-THRU FACILITY REGULATIONS

1. Purpose

The purpose of this By-law is to provide site design guidance at the planning application stage in order to assess, promote, and achieve appropriate development of a drive-thru facility. Each drive-thru facility will be reviewed in conjunction with this By-law for specific site context and conditions.

2. General Provisions

a. **Drive-thru Facility Application:** Applications for a new drive-thru facility or for modification of existing structures submitted after the adoption of this section shall require a special permit from the Planning Board in conformance with the provisions of this section herein.

b. **Drive-thru Facility:** The portion of an establishment that provides or dispenses products or services by an attendant or an automated machine to persons remaining in vehicles that are in designated stacking lanes. A drive-thru facility may be a standalone establishment or in combination with other uses such as a financial institution, personal service store, retail store, eating establishment, or gasoline stations.

c. **Elements of a Drive-thru Facility:** A drive-thru facility is composed of the stacking lanes and the service area. A stacking lane is the space occupied by vehicles queuing for the service to be provided. The service area includes, but is not limited to, the order stations, windows, menu boards, speakers, and lighting.

3. Drive-thru Facility Site Design Standards

a. The access points to the drive-thru facility from the public way shall be constructed a sufficient distance from roadway intersections to prevent traffic conflicts, overflow, and congestion. When possible, the drive-thru facility shall exit onto a secondary street.

b. The stacking lanes and service area shall be located to the side or rear of the buildings and site.

c. All driveways and stacking lanes shall be clearly delineated on-site with pavement markings and traffic control signage.

d. The exit from the drive-thru facility shall have unobstructed lines of vision clear of vegetation and signage.

e. The maximum number of stacking lanes permitted for:

i. food/eating establishments is two stacking lanes;
ii. financial institutions is two stacking lanes; and
iii. all other drive-thru facilities is one stacking lane.

f. The drive-thru facility shall be designed to reduce pedestrian and vehicular conflicts. A minimum of seventy-five percent of the parking spaces shall be designed so there are no conflicts between the stacking lanes and the pedestrian access into the establishment.

g. Adequate space shall be provided between the stacking lane and the parking field to maintain safe parking conditions.

h. The stacking lanes shall not block access to parking spaces, on-site loading areas, and trash removal operations and facilities.

i. The stacking lanes shall be effectively separated from the parking field through the use of curbing, raised islands, and/or landscaping improvements. The Planning Board may permit the use of hardscape improvements such as decorative pavers and bollards to meet this design objective.

j. Each stacking space within a stacking lane shall be a minimum of twenty feet in length and ten feet in width along straight portions and twelve feet in width along curved segments of the stacking lane.

k. All interior pedestrian crosswalks shall be a minimum of eight feet in width, and constructed of material that contrasts with driveway and surface treatments. The Planning Board may require crosswalks to be raised up to curb level.

l. An emergency exit and/or by-pass lane may be required for the stacking lane or service area.

m. The service area and stacking lanes shall be located a sufficient distance from the property line of adjacent uses to prevent noise or lighting impacts.

n. In addition to the standard requirements of the Zoning By-law, the Planning Board may require additional buffering and screening to effectively shield adjacent properties from a drive-thru facility.

o. When a drive-thru facility is proposed on a property within an historically or architecturally significant building as defined under Article V Section 21.2.6 of the Framingham General By-laws, the architectural character defining exterior elements of the building shall be preserved.

p. The service area shall incorporate weather protection features.

q. All elements of the drive-thru shall be designed to provide adequate clearances as may be required by state and federal regulations with respect to the design of any architectural access features required under the Americans with Disabilities Act (ADA) and with 521 CMR Architectural Access Board Rules and Regulations.

4. Number of Required Drive-thru Lane Stacking Spaces

a. **Food/Eating Establishment (including, but not limited to, Fast Order Food Establishment and Restaurant establishments)**

i. A minimum of ten stacking spaces shall be provided before the service area. If the service area has two order stations, the ten stacking spaces may be divided between each of the order stations.

ii. A minimum of five additional stacking spaces shall be provided after the order station. If the drive-thru facility has a transaction window before the pick-up window, an additional two stacking spaces are required between the transaction window and the pick-up window.

iii. A minimum of two designated customer delivery spaces shall be provided for a drive-thru facility.

b. **Financial Institution** – A minimum of three stacking spaces shall be provided before the transaction service (i.e. teller window, automated teller, or automated teller machine). If the facility has two stacking lanes, the stacking spaces may be divided between the two stacking lanes.

c. **All Other Drive-thru Facilities** – A minimum of four stacking spaces shall be provided before the transaction service. The Planning Board may require additional stacking spaces based on the anticipated queuing demand for the drive-thru facility.

5. Additional Conditions, Limitations, and Safeguards

a. The Planning Board may by a special permit, four-fifth vote, waive the above referenced provisions herein, if the Planning Board determines that an alternate design serves a public benefit or contributes to an overall better site design.

b. Any application for review and approval of a drive-thru facility shall also be subject to Site Plan Review under Section VI.F. The Site Plan Review application shall be submitted concurrently with any special permit application.

c. In granting approval of an application for a drive-thru facility, the Planning Board may attach conditions, limitations, and safeguards as deemed necessary. Such conditions, limitations, and safeguards shall be in writing and be part of such special permit approval. The Planning Board may attach the following conditions to the special permit approval:

i. Conditions to provide a system of joint use driveways and cross access corridors with adjacent properties to facilitate access management, to prevent traffic safety hazards, and to maintain the level of service on adjacent roadways;

ii. Conditions to require additional stacking spaces based on a specific proposal; and

iii. Conditions to allow the Planning Board to evaluate the facility up to one year of operation to determine that the conditions are sufficient to mitigate any adverse impacts.

The failure to comply with this By-law and/or the terms of the permit may result in revocation of the permit issued hereunder. The Planning Board shall by first class mail send the owner written notification of any failure to comply with this By-law and/or the terms of the permit. If the owner believes that he is not in violation, he may request and will be granted an opportunity to attend a Planning Board meeting to try to resolve the alleged violation. If within 30 days from the date of mailing of said notice, the owner has not resolved the matter with the Planning Board, or remedied the alleged violation, it shall be grounds for revocation of the permit.

At the expiration of the 30 day period, the Planning Board after a duly noticed public hearing, including notice to the owner by first class mail, may revoke the permit if it finds by a four-fifths vote that there has been a violation of this By-law and/or the terms of the permit and that the owner has failed to remedy it; alternatively, the Planning Board may continue the public hearing, or by a four-fifth vote extend the time period in which the violation may be corrected.

K. NEIGHBORHOOD CLUSTER DEVELOPMENT

1. Purpose and Intent

The Purpose of this Section is to allow, by special permit from the Planning Board, an alternative use and pattern of land development to the standard conventional grid subdivision permitted in the single-family residential districts (R-1 and R-2). The intent of the Neighborhood Cluster Development (NCD) By-law is to:

a. further the goals and policies of the Town's Master Plan;

b. conform the development to existing topography and natural features better than a conventional or grid subdivision;

c. consume less open land;

d. create a residential neighborhood that provides opportunities for social interaction, such as walking and hiking in Common Land Areas;

e. utilize the most recent version of the Massachusetts Highway Department: Project Development and Design Guide-Complete Street Design Techniques;

f. utilize Low Impact Development Design Techniques;

g. utilize Green Building Design Techniques; and

h. facilitate the construction and maintenance of housing, streets, utilities, and public service in an economical and efficient manner.

2. Applicability

a. Any parcel or parcels of land, that are in one ownership throughout or any combination of parcels of land consolidated under a Purchase and Sale Agreement where all such owners jointly apply for a NCD special permit. To be included in an application for a NCD Special Permit and defined herein as the NCD tract, such parcel or parcels must have definite boundaries ascertainable from a recorded deed or recorded plan and be located within a zone permitting a NCD.

b. The Planning Board may permit lots directly on opposite sides of a street, right-of-way, or public utility to qualify as a single NCD tract of land. To permit such division of an NCD tract of land by a street, right-of-way, or public utility, the Planning Board must find that this would comply with the purpose of this section and not result in any more dwelling units than would be possible in accordance with the provisions of this By-law if the lots on either side of the

street, right-of-way, or public utility were developed separately. Such permit shall be subject to the Dimensional Regulations and Design Standards under Section V.K.3. herein.

c. Eligible properties shall be located in the Single-Family Residential Zoning Districts of R-1 or R-2 and shall be served by municipal public water and sewer. The total gross land area included within the NCD tract shall be at least 4 contiguous acres in size with a minimum of 40 feet of frontage on a street.

d. The Planning Board may issue a special permit under this Section, subject to the requirements of this By-law, and in accordance with the additional requirements and standards specified within this Section V.K., only if no variance has been issued from the requirements of this Section V.K. A variance shall render a property ineligible for the filing of a NCD application and special permit under this section.

e. No substantial alteration to a parcel of land, which shall include tree removal, utility installations, ditching, grading or construction of roads, grading of land or lots, or excavation except for purposes of soil testing, dredging or filling, or construction of buildings or structures shall be done within 12 months prior to the filing of an NCD application. The above activities shall render a property ineligible for the filing of a NCD application and special permit under this section.

3. Neighborhood Cluster Development Standards

a. **Permitted Uses:** Permitted uses in the NCD shall be single-family detached dwellings and/or townhouse dwellings with no more than 3 attached townhouse dwelling units. The Planning Board by an affirmative vote of at least four members may allow 4 attached dwelling units.

b. **Density:** The intensity of use for a NCD shall be determined through the use of the following density formula herein and shall be calculated in the order presented in 1) through 5) below.

NCD DENSITY FORMULA

1) Total Gross Land Area (T) – Infrastructure (I) - Wetlands (W) - Slope (S) = Net Buildable Area (NBA)
2) Net Buildable Area (NBA) / Minimum Lot Area (MLA) = Base Residential Density (BRD)
3) Base Residential Density (BRD) * Minimum Open Space (ORU) = Common Land Area (C)
4) Net Buildable Area (NBA) – Common Land Area (C) = Developable Area(DA)
5) Developable Area (DA) / Minimum Lot Area (MLA) * Number of Bedrooms (TB) = Allowed Bedroom Count (ABC)

(T) = Total Gross Land Area (sq.ft.)
(I) = 12% of Total Gross Land Area for Infrastructure (sq.ft.)
(W) = 100% of Total Wetlands on Site (sq.ft.)
(S) = Total Slope greater than 20% on Site (sq.ft.). Slope shall be reviewed and confirmed by the Town Engineer or by the Planning Board's professional consultant.
(NBA) = Net Buildable Area (sq.ft.)
(MLA)= Minimum Lot Area for a single-family detached dwelling in the R-1 and R-2 Zoning Districts
(BRD) = Base Residential Density
(ORU) = Minimum Open Space per Residential Unit is 2,800 sq.ft. per unit[8]
(C) = Minimum Required Common Land Area (sq.ft.)[9]
(DA) = Developable Area (sq.ft)
(TB) = Number of Bedrooms per Unit is 3.5 bedrooms[10]
(ABD) = Allowed Bedroom Count

* denotes multiplication

[8] 2,800 sq.ft. is the minimum open space per residential unit derived from 800 sq.ft. per bedroom required by Section IV.E.2. multiplied by 3.5 bedrooms.

[9] Required Common Land Area shall also comply with subsection 4.b.1) herein.

[10] The number of units and bedrooms shall be rounded up to the next whole number.

c. **Dimensional Regulations:** The dimensional regulations specified in Section IV.E. are not applicable, except as specified herein. However, the Planning Board must find that such exceptions from Section IV.E. will result in better design, improved protection of natural and scenic resources, and will otherwise comply with these regulations. The Planning Board shall not approve an NCD that does not comply with the following minimum standards in the table herein.

Table of Dimensional Regulations[11]

	Zoning District R-1		**Zoning District R-2**	
	Single-family	**Townhouse**	**Single-family**	**Townhouse**
Lot Frontage[12]	30 feet	30 feet	30 feet	30 feet
Minimum Front Setback for Buildings	15 feet	15 feet	15 feet	15 feet
Minimum side setback for Buildings[13]	10 feet	10 feet	10 feet	10 feet
Minimum rear setback for Buildings	25 feet	25 feet	25 feet	25 feet
Minimum Distance between Buildings	20 feet	20 feet	20 feet	20 feet
Maximum Height of Buildings and Structures	2 stories/30 feet	2 stories/30 feet	2 stories/30 feet	2 stories/30 feet
Maximum Lot Coverage[14]	40 percent	40percent	40 percent	40 percent

d. **Design Standards:** The NCD shall be consistent with the following Site Development and Building Design Standards:

1) Zero-lot line development in accordance with the State Building Code may be allowed by an affirmative vote of at least four members of the Planning Board.

2) Buildings shall be separated as required by applicable fire safety and buildings codes.

3) Screening and buffering shall be provided to respond to the need for privacy between and around dwelling units:

i. No structures within the NCD shall be placed closer to the NCD tract property line than the front setback requirement of 30 feet;

ii. No structures within the NCD tract shall be within 30 feet of the Common Land Area; and

iii. There shall be a buffer zone between the NCD tract and adjacent properties that shall provide effective buffering and screening that includes a combination of deciduous and/or evergreen trees

[11] Unless otherwise provided for in Section V.K., the Dimensional Regulations in Section V.K.3.c. herein, shall be complied with.

[12] Lot Frontage in this chart refers to instances where the lots are owned by individual homeowners.

[13] Except for approved zero- lot line development.

[14] The area of a lot lying within the outside lines of exterior walls of all buildings on the lot, including the area of any appurtenance; or if indicated by the context, the ratio of said area, to the total Developable Area (DA) of the NCD tract, expressed as a percentage.

and lower-level elements such as shrubs, hedges, grass, ground cover, planted berms and/or opaque fencing.

4) The site design and building design shall relate harmoniously to the topography and unique physical characteristics of the NCD tract.

5) The buildings within the NCD tract shall be sited to maximize the number of house lots with open spaces views and convenient access to usable open space while minimizing the interruption of scenic vistas and open space as seen from the roadway.

6) The development shall not impede access to Common Land.

7) Roadways, sidewalks, and pathways shall incorporate Complete Street design concepts into the NCD.

8) The Stormwater Drainage System shall incorporate Low Impact Development Techniques to achieve sustainability objectives.

9) NCD projects shall investigate and employ to the extent feasible potential alternative energy sources for the individual residence and development.

10) The utilities shall employ Energy Efficient Devices and Techniques in accordance with the State Building Code, which may include but is not limited to Energy Star, Low Emission Demand, LEED both for individual residences and development to achieve sustainability objectives.

11) Utility boxes, dumpsters and similar accessory uses and structures shall be located in convenient locations, visually screened, and shall not impede pedestrian or vehicular circulation.

12) All utilities shall be placed underground.

13) Access to residences may be provided by common or shared driveways not to exceed 1,000 linear feet in length.

14) A common or shared driveway serving three or more residential units may require a higher construction standard than a standard driveway construction.

15) Historic, traditional, or significant uses, structures, or architectural elements shall be preserved where possible and any removal or disruption shall be minimized.

16) Building Design shall provide visual interest and avoid monotony and repetition in adjacent or nearby structures. The architecture shall be designed to provide variation through the use of color, building material, detail, breaks in roof and wall lines, porches, detailed cornices, and substantial roof overhangs, dormers, screenings and/or other architectural elements. Traditional materials such as wood and masonry are strongly encouraged for exterior facades. Windows and exterior doors shall be consistent and compatible with the materials, style, and color of the building, and shall be arranged to give the façade a sense of balance and proportion.

17) Residential parking spaces shall be located in reasonable proximity to the dwelling or in attached garages. One or two car garages attached to individual dwelling units shall be encouraged. Such garages shall be designed to architecturally complement and enhance the building design and shall not dominate the building and site layout. They shall not obscure the front of the unit or building and may extend no more than six feet beyond the face of the building unless approved by an affirmative vote of at least four members of the Planning Board. Freestanding garages shall be located to the side or to the rear of the building or units; access to garages may be from the rear of the residential dwelling units.

18) Ancillary structures, uses or amenities owned individually or in common, shall be shown on the plan and fully incorporated into the design of the NCD. These ancillary structures, uses or amenities shall not exceed

5 percent of the total developable area of the NCD tract and shall not be allowed without approval from the Planning Board and the special permit issued pursuant to Section V.K. herein.

e. Affordable Housing Requirement: NCD projects must comply with all the requirements of Section V.H. Affordable Housing.

4. Common land Design Standards

a. Open Space Design: Common land shall be designed in large, contiguous units, whenever possible. Strips or narrow parcels of Common Land shall be permitted only for access; to connect to other significant areas; or designed to protect linear resources such as trails or streams, wildlife corridors, or as vegetated buffer strips along the site's perimeter. Whenever possible, Common Land should connect with existing or potential conservation or Common Land Areas on adjoining parcels.

b. Common Land Standards: The total area of Common Land shall meet or exceed the following standards:

1) Notwithstanding the Common Land Area calculation under Section V.K.3.b. herein, the minimum required Common Land for an NCD shall be at least 30 percent.

2) The wetland resource areas shall not comprise more than 25 percent of the Common Land.

3) Slopes greater than 20 percent shall not comprise more than 25 percent of the Common Land.

c. Use of Common Land: The use of Common Land shall be solely for recreation, conservation, gardening, or park purposes by residents and/or the public. Where appropriate, multiple uses of Common Land are encouraged. Up to half of the required Common Land may be required to remain in its natural state. The proposed use of the Common Land shall be specified in the application. If several uses are proposed, the plans shall specify which uses will occur in which areas. The Planning Board shall have the authority to approve, disapprove, or recommend particular uses proposed for the Common Land.

d. Accessory Structures: Up to 5 percent of the Common Land may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the Common Land including parking for such uses.

5. Common Land Ownership and Maintenance

a. Conveyance of Common Land: All or part of the Common Land may be conveyed:

1) to the Town of Framingham for park, recreation, gardening and/or conservation use;

2) to a nonprofit organization, the principal purpose of which is the preservation and conservation of Common Land; and/or

3) to a homeowner's corporation or trust, owned or to be owned by all of the owners of lots or dwelling units within the NCD. If such a homeowner corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units.

b. Permanent Restriction: Common Land shall be subject to a permanent restrictive covenant to ensure that the open space is maintained and preserved as open space in perpetuity and shall provide for the following as may be applicable:

1) The ownership of all Common Land shall be shown on the Site Plan for the NCD.

2) Mandatory membership in the homeowner's corporation or trust, as a requirement of ownership of any residential unit or lot in the NCD tract.

3) Provisions for maintenance assessments of all owners of residential units or lots in order to ensure that the Common Land is maintained in a condition suitable for the approved uses, and that failure to pay such

assessment shall create a lien on the property assessed, enforceable by the homeowner's corporation or trust or the Town.

4) Provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the Common Land will not terminate by operation of law.

5) The developer of the NCD shall be responsible for the maintenance of the Common Land and any other facilities to be held in common until such time as the grantee(s) are capable of assuming said responsibility.

c. Encumbrances: All areas to be set aside as Common Land shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

d. Maintenance of Common Land: In any case where Common Land is not conveyed to the Town, the Applicant may be required to grant to the Town a conservation restriction easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such restriction shall provide that in the event the trust, homeowner's association or any other owners fail to maintain the Common Land in reasonable condition, the Town may, after notice to the lot owners, enter upon such land to maintain it in accordance with the requirements of this NCD By-law and the special permit. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the Common Land. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.

e. Monumentation: Where the boundaries of the Common Land are not readily observable in the field, the Planning Board may require placement of permanent surveyed bounds sufficient to identify the location of the Common Land.

6. Special Permit Application and Procedures:

Applicants shall submit a NCD plan developed by an interdisciplinary team of professionals, including, but not limited to a Registered Professional Engineer and a Registered Landscape Architect both licensed in the Commonwealth of Massachusetts, and other professionals as determined by the Applicant and Planning Board. The interdisciplinary team is essential to the project to ensure that development within the NCD for both residential development and Common Land preservation best fits the land.

The Applicant shall submit an application for an NCD Special Permit as specified in the Neighborhood Cluster Development Application and Procedure Requirements of the Planning Boards Administrative Rules and Regulations.

a. Procedural Requirements

1) Application Procedure: The review procedure shall be in conformance with MGL c.40A, Sections 9 and 11 and Section VI.E. and other permitting and approval processes as may be applicable. The Planning Board may require the Applicant to provide funds for Planning Board review consultants to assist in the technical review of the proposal in accordance with Article 16 of the Planning Board's Administrative Rules and Regulation in accordance with Chapter MGL c.44, Section 53G.

2) Pre-Application Conference: The applicant is encouraged to meet with the Planning Board in open session for an NCD Pre-Application Conference prior to submitting a formal application for NCD Special Permit. Materials which should be submitted prior to such Conference include the preliminary NCD Density Calculation with density yield plan, and an existing conditions plan. These materials should allow for a preliminary discussion of density yield for the proposed NCD and should provide an opportunity for informal staff and Planning Board review of the project design, while various design options are still open. The Pre-application Conference, preliminary materials, and discussions within the conference shall not be binding upon the Planning Board or Applicant for the final approval of the project.

b. Special Permit Criteria

1) In evaluating the proposed NCD, the Planning Board shall consider the general purpose and objectives of this Section; the existing and probable future development and use of surrounding areas; the appropriateness of the proposed layout of streets, ways, lots and structures; and the design and use of the

Common Land in relation to both the proposed dwelling units in the NCD and the important natural features of the proposed NCD tract of land.

2) The special permit shall be granted only if the Planning Board finds the NCD in compliance with Section VI.E.3.a. and with each of the following:

i. The proposed development shall be consistent and/or comply with the Purpose and Intent and Applicability subsections of an NCD as specified in Section V.K.1. and 2. herein;

ii. The proposed development shall comply with the requirements, standards, and objectives of this Section V.K., and other applicable requirements of this Zoning By-law;

iii. The proposed development shall be in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood;

iv. The proposed development shall provide for efficient use and delivery of municipal and other services and infrastructure; and

v. The proposed development shall not create a hazard to abutters, vehicles or pedestrians.

3) Special Permit Conditions: As a condition of approval, the Planning Board may require such changes in the proposed development plans and may impose such conditions and safeguards as permitted under Section VI.E.3.b., including the requirement for a performance guarantee, to secure the objectives of this bylaw, and to protect the health, safety and welfare of the inhabitants of the Town of Framingham.

c. Review and Approval Process

1) **Change in Plans after Grant of Special Permit**: No corrections, additions, substitutions, alterations, or any changes as defined in Section VI.E.2.e., shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board.

2) **Limitation on Development**: As may be applicable, no land shown on an approved NCD Site Plan for which an NCD Special Permit is granted under this Section may be further developed, unless such NCD Special Permit lapses or is rescinded. Exceptions may be made for minor shifts of a lot line between residential lots within the NCD tract, but under no circumstances may the lot lines of the Common Land be amended or may additional lots be created.

3) **Relationship to Subdivision Control Law Required**: Planning Board approval of a NCD Special Permit under this Section shall not substitute for compliance with the Subdivision Control Law, nor require the Planning Board to approve any plan showing a Subdivision or Division of land, nor reduce any time periods for Planning Board consideration under the law. All waivers from Subdivision Control Law or the Town of Framingham Subdivision Rules and Regulations shall be pursuant to Massachusetts General Laws, Chapter 41, Section 81R.

4) **Rules and Regulations:** The Planning Board may adopt and amend reasonable rules and regulations for the administration of this Section, including a schedule of fees. Direct costs associated with required legal notices shall be charged to the Applicant.

L. LAND DISTURBANCE

a. Purpose

The purpose of this by-law is to protect natural resources including but not limited to land, water, wetlands, trees and vegetation, wildlife, and scenic vistas and historic resources and to prevent or minimize the negative impacts of Erosion, Sedimentation, Clearing, Earth Removal and Fill, Earth Moving and Stormwater Runoff both on and off of the project site.

b. Definitions

Best Management Practice (BMP): A structural, nonstructural, or vegetative measure which reduces Erosion, Sediment, peak storm discharge, and/or improves the quality of Stormwater Runoff as described in the Stormwater Management Handbook and any other applicable local regulations.

Clearing: Removal or causing to be removed or destroyed, through either direct or indirect actions, trees six inches (6") in diameter or larger at four and a half feet (4 ½') above the ground (DBH) and shrubs at four feet (4') tall or taller. Actions considered to be Clearing include, but are not limited to: causing irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any Filling, excavation, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage.

Diameter Breast Height (DBH): The diameter of the trunk of a tree four and a half feet (4 ½') above the existing grade at the base of the tree.

Disturbed Area: An area, man-made or natural, where the existing condition has been or is proposed to be altered.

Earth Fill: The addition of earth materials to a Lot or parcel, including but not limited to, sand, gravel, stone, soil, loam, sod, clay and mineral products.

Earth Moving: The addition, removal or relocation of earth materials within the boundaries of a Lot or parcel, including but not limited to, sand, gravel, stone, soil, loam, sod, clay and mineral products.

Earth Removal: The removal of earth materials from a Lot or parcel, including but not limited to, sand, gravel, stone, soil, loam, sod, clay and mineral products.

Erosion: A condition in which the earth's surface, including vegetation, soil or rock fragment, is detached and moved away by the action of water, wind, ice, gravity or other natural means.

Fill: Any Fill used in connection with this project shall be clean Fill and may not contain any trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, asphalt, concrete, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

Hazardous Tree: A tree with a structural defect or disease, or that impedes safe sight distance or traffic flow, or otherwise currently poses a threat to life or property as verified by a certified arborist or Town Tree Warden.

Landscaping: Improvements made to a Lot or parcel through treatment of the ground surface with planting materials including but not limited to trees, shrubs, grass, ground cover or other growing horticultural material, as well as wood chips, stone or decorative rock.

Lot: For the purposes of this Land Disturbance By-Law, Lot shall be defined as an area of land in one ownership, with definite boundaries ascertainable by recorded deed or recorded plan and not divided by a public street or public way, including land under the control of the same person and land under the ownership of related or jointly owned entities, in existence as of the effective date of this Land Disturbance By-Law.

Sediment: Solid material, whether mineral or organic, that is in suspension, is transported or has been moved from its site of origin by Erosion.

Significant Forest Community: Unfragmented forests including forest types that provide habitat for rare species, unusual ecological processes, highly diverse forest communities, rare forest types, and those forest types which maintain connections between similar or different habitat areas.

Slope: Any elevation change across a horizontal distance of one hundred feet, as measured perpendicular to the contour line. For Lots lacking a horizontal distance of one hundred feet, the Slope will be calculated as any elevation change across a horizontal distance of fifty feet, as measured perpendicular to the contour line.

Soil Disturbance: Clearing, grading, regrading, excavation, stockpiling or Filling of six inches or more.

Specimen Tree: A native, introduced or naturalized tree which is important because of its impact on community character, its significance in the historic or cultural landscape or its value in enhancing the effects of wildlife habitat. Any tree with a diameter of eighteen inches at DBH or larger is presumed to be a Specimen Tree. Trees that have a small height at maturity or are slow growing, such as Flowering Dogwood or American Holly, with a diameter of six inches at two feet above the ground or larger are presumed to be considered Specimen Trees.

Stabilization: The elimination and prevention of Erosion.

Stormwater Management Handbook: "Stormwater Management Handbook," prepared by the Massachusetts Department of Environmental Protection and the Massachusetts Office of Coastal Zone Management as the same may be from time to time revised.

Stormwater Runoff: Water from precipitation or snow melt that does not evaporate or infiltrate into the ground.

c. Applicability

(1) Land Disturbance Permit
This By-Law shall apply to any proposed Land Disturbance activity on all existing Lots and new Lots created by plan as follows:

(a) Any Soil Disturbance greater than 4,000 square feet on an existing or proposed Slope of more than fifteen percent (15%);

(b) Any Earth Removal or Earth Fill of more than 400 cubic yards;

(c) Any Earth Moving activity of more than 1,000 cubic yards;

(d) Any Clearing of more than fifty percent (50%) of the Lot's area or more than 40,000 square feet, whichever square footage is less, but not including Lots with an area of 10,000 square feet or less.

(2) Exemptions
The provisions of this by-law shall not apply to the following activities:

(a) Construction of walkways, patios, driveways, gardens, Landscaping, walls, swimming pools, or replacement of wells or septic systems on Lots having an existing dwelling providing the activity is on an existing or proposed Slope of fifteen percent (15%) or less;

(b) Construction, reconstruction, maintenance or resurfacing of any public way or the installation of drainage structures or utilities within roadway layouts and easements, provided the activity is undertaken by the Town of Framingham, or the stockpiling of sand, gravel, stone, soil and salt at facilities operated by the Town of Framingham;

(c) Activities undertaken in connection with the refurbishing of an existing athletic field, or with the management of town owned park, or with the management of privately owned lands held by non-profit conservation organizations, or in connection with the management and operation of golf courses;

(d) Activities undertaken in connection with any existing sand and gravel operation or similar enterprise where such activity is allowed by zoning, but shall not include expanded operations;

(e) Work in connection with an agricultural use directly related to planting, cultivating or harvesting or the raising or care of animals, or conducted in accordance with an approved Natural Resource Conservation

Service Agricultural Plan, or agricultural uses on parcels of land of more than five acres as specified in M.G.L. Ch. 40A, §3, or harvesting of trees on property under M.G.L. Ch. 61 approved by a State Forester;

(f) Activities in accordance with the terms of an Order of Conditions issued by the Conservation Commission pursuant to M.G.L. Ch. 131 §40, or Framingham Wetlands Protection By-Law, Article V, §18 of the Framingham General By-Laws or mosquito control projects under the jurisdiction of the United States Army Corps of Engineers, except for land disturbance activities on uplands adjacent to a wetland resource area;

(g) Removal of Hazardous Trees, as defined herein;

(h) Removal of a tree following a tree removal public hearing, pursuant to the Public Shade Tree Act M.G.L. Ch. 87, when required;

(i) Routine maintenance of vegetation, removal of dead or diseased limbs and/or trees necessary to maintain the health of cultivated plants, containment of invasive or noxious weeds and/or vines in accordance with a Department of Environmental Management (DEM) approved Forest Management Activities, or Conservation Commission Order of Conditions, or remediation of an identified fire or health hazard or threat to public safety or property;

(j) Non-commercial cutting for fuel, provided that clear-cutting does not occur as provided herein.

(3) Non-Avoidance of Provisions of By-Law
The provisions of this By-Law shall apply to all Lots in existence on (May 2, 2007). Any segmentation or phasing of a development, or the subdivision or division of land subsequent to the effective date of this By-Law, unless otherwise exempted by law, shall be subject to and must comply with the provisions herein. All thresholds established in Section(c) of this By-Law shall be calculated based upon the Lot(s) in existence as of the effective date of this By-Law. The Planning Board shall not approve any Land Disturbance application if the land or parcels of land were deemed one Lot on the effective date of this By-Law or at any time subsequent thereto, except after considering the compliance of the entire Lot with the provisions of this By-Law.

d. Special Permit Application and Procedure

The Planning Board shall be the SPGA for the issuance of a Special Permit for Land Disturbance. Such special permit application shall be submitted, considered, and issued only in accordance with the provisions of this Section V.L and M.G.L. Ch. 40A, § 9. Prior to filing an Application for Special Permit for Land Disturbance, potential Applicants are strongly encouraged to meet in a pre-application conference with the Planning Board to discuss the review process.

(1) Any person who desires a Land Disturbance Special Permit shall submit a plan prepared and stamped by a Professional Engineer and a Professional Land Surveyor each registered in the Commonwealth of Massachusetts, at a scale of one inch equals twenty feet (1”=20’) showing:

(a) North arrow, scale, and date;

(b) Locus map showing the parcel in relation to the surrounding properties;

(c) Name of record owner(s) of land shown on the plan;

(d) Boundaries and existing and proposed topography of the property, including contours at a 2-foot interval, using (National Geodetic Vertical Datum 1929) NGVD29 as it may be updated from time to time and specifying NGVD29 on all elevation drawings, specifically indicating the areas on which the activity is proposed to occur, and clearly noting if the activity is on an area greater than 4,000 square feet or on Slopes 15% or greater;

(e) The size and location of all existing and proposed buildings, structures, utilities, roads, driveways, parking areas, and areas of cut and fill on the site and the location of all structures on abutting properties within 100 feet of the property lines of the parcel;

(f) Property lines, easements and/or other legal rights within the property lines;

(g) All wetlands and wetland resource areas as defined in M.G.L. Ch. 131, §40, and the Framingham Wetlands Protection Bylaw, Article V, §18 of the General By-laws, drainage patterns, and watershed boundaries. Also include a delineation of the 100-year floodplain and all bodies of water, including vernal pools, streams, ponds, and coastal waters within 125-feet of the project site/limit of work and the delineation of a 30-foot no-cut/no alteration zone;

(h) Submission of a scaled landscape plan that delineates on a single sheet the existing vegetation both on the Lot and in the right-of-way, the vegetation to be removed or relocated, the re-vegetation and the limit of work. The limit of work shall include all building, parking, and vehicular use areas, and any grading associated with the proposed development. Include a planting plan to ensure permanent re-vegetation of the site except for Disturbed Areas that will be covered by gravel, hardscape or a building or structure. If applicable, include:

(i) Upland vegetational communities, including trees, shrub layer, ground cover and herbaceous vegetation;

(ii) Size and height of trees, of Specimen Trees and/or significant forest communities;

(iii) Location of any rare and endangered species as mapped by the Massachusetts Natural Heritage Program;

(i) The location of any proposed stockpile locations;

(j) Detailed drawings and design calculations of all temporary and permanent stormwater management and Erosion and Sediment control structures and devices;

(2) Applications for a Land Disturbance Special Permit must be accompanied by a narrative containing the following elements:

(a) A narrative description of the methods to be employed and the means proposed to provide Erosion and Sedimentation control, to protect groundwater, to control dust and to protect abutting properties and/or adjacent areas;

(b) A description of the project's phases as they relate to land disturbance, including a tabulated sequence of construction and a construction schedule which must include the inspection and maintenance of Erosion Control Measures for the project throughout the construction period and the timing of vegetation Clearing, transplanting or replacement in relation to other construction activities;

(c) A description of BMP as they relate to Erosion control to be employed as the standard of performance in development of the project site;

(d) A narrative description of pre and post-construction Stormwater Runoff Analysis showing that Stormwater Runoff will be controlled as required by the Findings and Conditions of Approval, accompanied by design calculations using generally accepted analytical tools;

(e) Information on predominant soil types and Erosion potential on the site from the Natural Resource Conservation Service;

(f) A detailed description of the type of Fill to be used on site;

(g) A narrative documenting the species and quantities of Specimen Trees and/or other vegetation to be removed or relocated within the project area;

(h) If applicable, include a statement prepared by a certified arborist for the proposed relocation of any existing Specimen Tree explaining how said tree is to be relocated and maintained.

(3) Photographs of the site prior to disturbance shall accompany the application.

(4) Based upon the size or character of the project including the scope of activity, area of disturbance and the percent slopes on which the work is to occur, the Planning Board may require additional information or may waive some or all of the requirements of the Land Disturbance application.

(5) The Planning Board, at its sole discretion, may determine that a proposed project's size, scale, complexity or potential impact warrants the use of outside consultants. Such consultants shall provide comment upon the project in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, providing legal counsel for decisions and covenants, and monitoring or inspecting a project or site during construction or post-construction for compliance with the Board's decisions or regulations. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant in accordance with Article 16 of the Planning Board Rules and Regulations.

(6) The applicant shall make all requests for waivers in writing. The Planning Board may require the applicant to submit supporting technical information and documentation to demonstrate why such waivers should be granted. The Planning Board's decision to grant or deny waivers shall be in writing and shall set forth the reasons for the grant or denial.

e. Findings and Conditions of Approval

The Board shall not approve any application for a Land Disturbance Special Permit unless it finds that, where applicable, the following requirements shall be met:

(1) Site Management and Control

(a) Building envelopes for structures, driveways, wastewater disposal, lawn areas and utility work are designed and delineated in a manner to limit land disturbance to the greatest extent possible;

(b) Suitable areas are designated for temporary uses such as the parking of construction vehicles, trailers and stockpiling of equipment and materials;

(c) All waste products, grubbed stumps, slash, construction materials, etc., shall be lawfully disposed of and shall not be in any manner incorporated into the project site with the exception of the reduction of stumps and slash to mulch;

(d) During construction, temporary Erosion and Sedimentation control measures are employed in accordance with the approved plan and the BMP until a Disturbed Area is permanently stabilized;

(e) Permanent Erosion control and vegetative measures are in accordance with the BMP;

(f) The duration of disturbance is set forth in a written timetable;

(g) Dust control is used throughout construction;

(h) Throughout the duration of construction, a gravel apron of at least fifteen feet wide and at least twenty-five feet long is required at any site access from a paved public way to prevent unstable material from being transported onto the roadway by vehicle tires.

(2) Control of Stormwater Runoff

(a) Whenever possible, the natural topography of a site is preserved so as to reduce unnecessary land disturbance and to preserve natural drainage patterns on the site;

(b) The project does not increase the rate, concentration or velocity of runoff from the site, and the project shall minimize the volume increase of runoff from the site to adjoining properties;

(c) There is no adverse impact to abutting properties from any change in volume of Stormwater Runoff resulting from land disturbance activities including but not limited to Erosion, silting, flooding, Sedimentation, subsidence or impacts to wetland, groundwater resources, septic systems or wells;

(d) There is no adverse impact to groundwater resources in terms of quantity or quality.

(3) Protection of Natural Features and Vegetation

(a) Endangered species and wildlife habitats and corridors, natural landscape features, and scenic vistas and views are protected to the maximum extent feasible. Buildings, structures or parking facilities are sited away from the crest of hills in a manner not to detract from the site's scenic qualities;

(b) Open space and Specimen Trees are preserved in the site's design and development, giving priority to retention of existing stands of trees, trees at the site perimeter, and contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions);

(c) Forested areas are preserved to the maximum extent feasible if they are associated with significant forest communities as defined herein; wetlands, waterbodies and their buffers; critical wildlife habitat areas; and Slopes over 15%;

(d) During Clearing and/or construction activities, all vegetation to be retained will be surrounded by temporary protective fencing or other measures before any Clearing or grading occurs, and maintained until all construction and site work is completed and all construction equipment and debris is removed from the site;

(e) Where the site is not proposed to be covered with gravel, hardscape or a building or structure, a planting plan to ensure permanent re-vegetation of the site, including but not limited to providing a loam depth of not less than six inches for areas to be planted, has been provided by means of adequate revegetation techniques;

(f) Existing grade will be maintained around trees such that the ground level is not raised over the root area.

(4) Protection of Historic Resources

(a) Reasonable measures are employed to protect historic resources including but not limited to historic landscape features both above and below ground, buildings, structures, objects, stone walls, foundations, designed landscapes and gardens.

f. Additional Requirements, Conditions, Limitations and Safeguards

In granting approval of an application the Planning Board may impose additional requirements, conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include but are not limited to:

(1) Controls on the location and type of access to the site during all site activity;

(2) Controls on the number of vehicles that arrive or depart during the morning and/or evening peak hours during all site activity (including controls on the maximum number of vehicles which may use the off-street parking areas during said periods);

(3) Conditions to minimize off-site impacts on traffic and environmental quality during site activity;

(4) Requirements for screening from adjoining premises or from the street by walls, fences, plantings or other devices to mitigate adverse impacts;

(5) Conditions to mitigate adverse impacts to the neighborhood and abutters, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation or snow storage;

(6) Compliance with all applicable federal, state and local regulations and guidelines, including but not limited to the Stormwater Management Handbook as it may be amended;

(7) Submission of a response from the Massachusetts Historical Commission (MHC) and the Framingham Historical Commission regarding the potential for archaeological or historical resources on the site, as may be applicable;

(8) Submission of homeowner's or condominium documents which shall provide for the long term operation and maintenance of all permanent Erosion control and stormwater management measures;

(9) Requirement of a cash performance guarantee to ensure compliance with these requirements. With the approval of the Board, the applicant may substitute an irrevocable letter of credit or performance bond from a bond company or financial institution acceptable to the Town of Framingham in lieu of the cash performance guarantee. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or Guarantee Company qualified to do business in the Commonwealth of Massachusetts.

(10) Requirement to record the Special Permit decision with the Registry of Deeds or Registry District of the Land Court prior to commencement of any land disturbing activity authorized under this Special Permit, the applicant shall submit to the Planning Board written proof of such recording.

(11) Submission in writing of the name and contact information of the person who is responsible at all times for the land disturbing activity that is the subject of the application. Said person shall ensure that the approved activity takes place in accordance with the application, plan and special permit requirements.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for conditions which are required as part of a favorable decision for issuance of the Special Permit.

g. The Planning Board may deny a Land Disturbance Special Permit if it determines:

(1) The requirements of Section V.L herein are not met, or

(2) The project violates or circumvents other provisions of any Town zoning by-law or regulation, or

(3) The project received a variance issued by the Zoning Board of Appeals from the requirements of Section V.L. herein without first receiving a favorable recommendation from the Planning Board.

M. AGRICULTURAL PRESERVATION DEVELOPMENT

1. Purpose and Intent

The Agricultural Preservation Development (APD) By-law shall apply to parcels of land within the Town of Framingham that meet the definition of an Active Farm. The APD provides landowners with an opportunity to sell up to 30 percent of their land for a residential cluster development while protecting a minimum of 70 percent of the property as an Active Farm Parcel.

The intent of the APD is to:

a. Promote and protect the Active Farm through conservation of those lands for future agricultural use and/or habitat:
b. Maintain an adequate base of agricultural land and activity in Framingham to help ensure the continued economic viability of local farms and thereby contributing to the continued availability of agricultural supported services;
c. Preserve land which, by virtue of its soil composition, acreage, location adjacent to and contiguous with other farmland or preserved open space forming discrete blocks of land, and its lack of protection under existing zoning or other laws, comprises the critical unprotected farmland of the Town of Framingham.
d. Create a unique cluster development neighborhood setting while preserving important farming resources;
e. Establish non-motorized vehicular connections between open space parcels, water resources, neighborhoods, and/or public amenities; and
f. Promote land use consistent with the Town's Master Plan and Open Space & Recreation Plan.

2. Active Farm Parcels

a. Applicability

To qualify for a special permit under the APD as an Active Farm, the proposed land shall be:

i. located in a R-3 or R-4 Single Family Residential Zoning District;
ii. consistent with the definition of an Active Farm; and
iii. not have been subdivided into smaller parcels, including Approval Not Required (ANR) within a 5-year period prior to submission of an application for Section V.M, herein.

b. Development Requirements

The development of the Active Farm Parcel shall require the following conditions:

i. The Applicant shall file with the Planning Board a Preliminary Plan conforming to the requirements of Section V.C. of the Framingham Subdivision Rules and Regulations, the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Town of Framingham Wetlands Protection By-law (article V, Section 18). A Professional Land Surveyor or Engineer licensed in the Commonwealth of Massachusetts shall prepare the Preliminary Plan to determine the number of buildable lots that would be created under conventional zoning. The Preliminary Plan shall identify the quality of the land by identifying all wetlands, other resource areas and slopes over 15 percent. The number of lots shall also be consistent with Section IV.L. Land Disturbance by-law and shall be reviewed and approved as to accuracy by the Town Engineer. A copy of the preliminary plan and all documents shall be filed with the Conservation Commission for review. The Conservation Commission shall review the delineated wetlands, resource areas and buffer zones and issue an Order of Conditions under state and local regulations and make a recommendation to the Planning Board.
ii. A minimum of 70 percent of the Active Farm shall be known as the Preserved Area and shall be preserved under an Agriculture Preservation Restriction (APR) in accordance with Section V.M.4. and shall remain in private ownership of the Active Farmer.

iii. A maximum of 30 percent of the Active Farm shall be known as the Buildable Parcel and may be utilized for residential development.

iv. The Applicant shall submit a proposed site plan that may request a unit density bonus of up to 20 percent of the number of buildable lots determined under the Preliminary Plan. During a pre-application meeting, the Planning Board shall determine if the proposed density bonus is acceptable based on the quality of the Open Space Preserved Land. Factors that the Planning Board shall consider to determine the density bonus include the quality of the land preserved and locations of wetlands, vernal pools, and all other resources and buffer zones as reviewed by the Conservation Commission and slopes over 15 percent and any possible need for septic systems and wells.

3. Agriculture Preservation Development Requirements

Areas allowed for residential development on the Buildable Parcel shall be required to meet the following conditions:

a. **Dimensional Regulations**

The APD shall comply with Section V.M.3.a Table of Dimensional Regulations. However, the Planning Board may waive the requirements for Section V.M.3.a Table of Dimensional Regulations by a four-fifth vote where such waivers will allow for better design and/or improved protection of natural and scenic resources.

Table of Dimensional Regulations

Active Farm	R-3 & R-4
Lot Frontage for the Buildable Parcel	150 Feet
Vegetated Buffer Surrounding the Development Adjacent to the Active Farm	100 Feet
Vegetated Buffer Surrounding the Development Adjacent to other land uses	75 Feet
Front Building Setback	30 Feet
Side Building Separation	50 Feet
Rear Building Separation	75 Feet
Maximum Number of Attached Units	3
Maximum Building Height	3 stories/35’

b. Design Standards

The Buildable Parcel shall be consistent with the following Site Development and Building Design Standards.

i. Dwelling Units: The APD shall be comprised of attached dwelling units and/or single-family dwelling units.

ii. Design: The Neighborhood Cluster Development design standards found in Section V.K.3.d.2., 4., 7., 9-12, 15-18, and the Affordable Housing requirements of Section V.H. of the Framingham Zoning By-law apply to this section.

iii. Layout of buildings: To maintain the visual scale of the community, each dwelling unit shall have its own exterior entrances.

iv. Streets and Utilities: All streets, whether public or private, shall be designed and constructed in accordance with the American Association of State Highway and Transportation Officials (AASHTO) “Guidelines for Geometric Design of Very Low-Volume Local Roads,” dated 2001 and “Complete Streets Policies” of the Massachusetts Department of Transportation.

v. Water and sewer facilities and systems and other utilities, whether public or private, shall be designed and constructed in accordance with the requirements set forth by the Department of Public Works and Board of Health and/or Department of Environmental Protection when required. Individual or community septic systems may be allowed, subject to Board of Health and/or Department of Environmental Protection approval, regulations, conditions and restrictions. Public water and sewer infrastructure shall not be constructed or paid for by the Town.

vi. Drainage: The Planning Board shall require the use of non-structural stormwater management techniques and other drainage techniques that reduce impervious surface and enable infiltration utilizing "Low Impact Development Techniques" for stormwater management recommended by the Massachusetts Department of Environmental Protection where feasible.

c. Common Open Space

i. An area within the Buildable Parcel shall be designated as Common Open Space for use by the residents of the APD. A minimum of ten percent of the entire Buildable Parcel excluding the vegetated buffers shall be designated as Common Open Space. Common Open Space may be used for active, passive or leisure activities.

ii. Common Open Space shall meet the following minimum standards:

a. The wetlands or slopes greater than 15 percent shall not comprise more than 25 percent of the Common Open Space, as identified in Section V.M.2.b.iv., herein.

d. Open Space and Connectivity

i. A trail within the Active Farm Parcel accessible to the general public shall be established connecting the Buildable Parcel with abutting open space parcels, trail networks, water resources, public amenities, and/or neighborhoods.

ii. A minimum of two parking spaces shall be provided for public use, to be utilized while using the trail. One of the two parking spaces shall be ADA compliant. "No Overnight Parking" signage shall be installed.

iii. Public access details shall be determined during the public hearing process and written into the Agriculture Preservation Restriction (APR) documents and the homeowners and/or condominium association documents.

4. Agriculture Preservation Restriction

The Active Farm Parcel shall be required to meet the following requirements:

a. The Town of Framingham acting through its Conservation Commission, a land trust, or the Commonwealth of Massachusetts may hold the APR. In no event may the land subject to the APR be combined, included or joined with or considered as part of the Buildable Parcel. The APR shall not be held under the Active Farm or Active Farmer. In all cases, the terms of the APR, including the nature and extent of public access and provisions for property maintenance, must be reviewed and approved by the Planning Board and Town Counsel.

b. The entire Active Farm shall be placed under an APR in perpetuity prior to the issuance of the first building permit at the expense of the Applicant. The APR shall be held by the Town of Framingham and/or a non-profit land trust.

c. Additional buildings for the use essential to the Active Farm such as barns, temporary structures, or other accessory buildings within the APR area may be allowed by modification of the approved plan by the Planning Board.

d. All of the above restrictions must be written into the APR. The Active Farm subject to an APR may be sold or leased as an Active Farm to a farmer who will continue to maintain the agricultural use of the land.

5. Application Review

a. Pre-Application Meeting

The applicant shall be required to attend a pre-application meeting with the Planning Board prior to submitting a formal application for APD. Materials shall be submitted prior to the meeting with the Planning Board and shall include the Preliminary Plan as required in Section V.M.2.b.i. and iv. The pre-application meeting, preliminary materials, and discussions within the conference shall not be binding upon the Planning Board or Applicant for the final approval of the project.

b. Application Submittal

Application: The Applicant shall apply for a Special Permit and Site Plan Review (Section VI.F.) from the Planning Board.

c. Approval

The review procedure shall be in conformance with M.G.L. c. 40A, §§ 9 and 11 and Section VI.E. of the Framingham Zoning By-law and other permitting and approval processes as may be applicable. The Planning Board may require the Applicant to fund Project Review Consultants to assist in the technical review of the proposal in accordance with the Planning Board's Administrative Rules and Regulation and M.G.L. c.44, § 53G.

d. Homeowners and/or Condominium Association Documentation

Homeowner and/or Condominium Association Documentation shall be submitted to the Planning Board prior to the approval of an APD. Documentation shall include a statement regarding the acknowledgement of an existing working farm abutting the parcel, which shall not be deemed as a nuisance.

e. Variance Limitations

The Planning Board may issue a special permit under this Section, subject to the requirements of this By-law, and in accordance with the additional requirements and standards specified within this Section V.M., only if no variance has been issued from the requirements of this Section V.M., herein. A variance under Section V.M. shall render a property ineligible for the filing of an APD application and special permit under this section.

g. No Alterations

No substantial alteration to a parcel of land, which shall include tree removal, utility installations, ditching, grading or construction of roads, grading of land or lots, alteration of or near a wetland or vernal pool or excavation except for purposes of soil testing shall be done within 12 months prior to the filing of an APD application. The above activities shall render a property ineligible for the filing of an APD application and special permit under this section. For the purposes of soil testing and/or well testing the Applicant shall seek appropriate approvals through the Conservation Commission and the Board of Heath.

N. OPEN SPACE CLUSTER DEVELOPMENT

1. Purpose and Intent

The Open Space Cluster Development (OSCD) By-law shall apply to parcels of land within the Town of Framingham that meet the definition of Open Space Parcel (OSP). The OSCD provides landowners with an alternative to conventional residential subdivision while protecting a large portion of the property in its current state or use.

The intent of the OSCD is to:

g. Promote and protect the OSP through conservation of those lands in their natural condition, to preserve habitat and environmentally sensitive areas, or passive recreational opportunities;
h. Preserve land which, by virtue of its soil composition, acreage, location adjacent to and contiguous with farmland or preserved open space forming discrete blocks of land, and its lack of protection under existing zoning or other laws, comprises the critical unprotected open space areas of the Town of Framingham.
i. Create a unique cluster development neighborhood setting while preserving important open space resources;
j. Establish non-motorized vehicular connections between open space parcels, water resources, neighborhoods, and/or public amenities; and
k. Promote land use consistent with the Town's Master Plan and Open Space & Recreation Plan.

2. Open Space Parcels

a. Applicability

To qualify for a special permit under the OSCD the proposed land shall be:

i. located in a R-3 or R-4 Single Family Residential Zoning District;
ii. consistent with the definition of an Open Space Parcel; and
iii. not have been subdivided into smaller parcels, including Approval Not Required (ANR) within a 5 year period prior to submission of an application for Section V.N, herein.

b. Development Requirements

The development of the Open Space Parcel shall require the following conditions:

i. The Applicant shall file with the Planning Board a Preliminary Plan conforming to the requirements of Section V.C. of the Framingham Subdivision Rules and Regulations, the Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the Town of Framingham Wetlands Protection By-law (article V, section 18). A Professional Land Surveyor or Engineer licensed in the Commonwealth of Massachusetts shall prepare the Preliminary Plan to determine the number of buildable lots that would be created under conventional zoning. The Preliminary Plan shall identify the quality of the land by identifying all wetlands, other resource areas, and slopes over 15 percent. The number of lots shall also be consistent with Section V.L. Land Disturbance by-law and shall be reviewed and approved as to accuracy by the Town Engineer. A copy of the preliminary plan and all documents shall be filed with the Conservation Commission for review. The Conservation Commission shall review the delineated wetlands, resource areas and buffer zones and issue an Order of Conditions under state and local regulations and make a recommendation to the Planning Board
ii. A minimum of 60 percent of the Open Space Parcel shall be known as the Open Space Preserved Area and shall be preserved under a Conservation Restriction in accordance with Section 4.b.
iii. A maximum of 40 percent of the Open Space Parcel shall be known as the Open Space Buildable Parcel and may be utilized for residential development.
iv. The Applicant shall submit a proposed site plan that may request a unit density bonus of up to 20 percent of the number of buildable lots determined under the Preliminary Plan. During a pre-application meeting, the Planning Board shall determine if the proposed density bonus is acceptable based on the quality of the Open Space Preserved Area. Factors that the Planning

Board shall consider to determine the density bonus include the quality of the land preserved and locations of wetlands, vernal pools and all other resources and buffer zones as reviewed by the Conservation Commission and slopes over 15 percent and any possible need for septic systems and wells.

3. Open Space Cluster Development Requirements

Areas allowed for residential development on the Open Space Buildable Parcel shall be required to meet the following conditions:

a. Dimensional Regulations

The OSCD shall comply with Section V.N.3.a Table of Dimensional Regulations. However, the Planning Board may waive the requirements for Section V.N.3.a Table of Dimensional Regulations by a four-fifth vote where such waivers will allow for a better design and/or improved protection of natural and scenic resources.

Table of Dimensional Regulations

Open Space Buildable Parcel	R-3 & R-4
Lot Frontage for the Buildable Parcel	150 Feet
Vegetated Buffer Surrounding the Development Adjacent to the Active Farm	100 Feet
Vegetated Buffer Surrounding the Development Adjacent to other land uses	75 Feet
Front Building Setback	30 Feet
Side Building Separation	50 Feet
Rear Building Separation	75 Feet
Maximum Number of Attached Units	3
Maximum Building Height	3 stories/35’

b. Design Standards

The Building Parcel shall be consistent with the following Site Development and Building Design Standards.

i. Dwelling Units: The OSPD shall be comprised of attached dwelling units and/or single-family dwelling units.

ii. Design: The Neighborhood Cluster Development design standards found in Section V.K.3.d.2., 4., 7., 9-12, 15-18 and the Affordable Housing requirements of Section V.H. of the Framingham Zoning By-law apply to this section.

iii. Layout of buildings: To maintain the visual scale of the community, each dwelling unit shall have its own exterior entrances.

iv. Streets and Utilities: All streets, whether public or private, shall be designed and constructed in accordance with the American Association of State Highway and Transportation Officials (AASHTO) “Guidelines for Geometric Design of Very Low-Volume Local Roads,” dated 2001 and “Complete Streets Policies” of the Massachusetts Department of Transportation.

v. Water and Sewer facilities and systems and other utilities, whether public or private, shall be designed and constructed in accordance with the requirements set forth by the Department of Public Works and Board of Health and/or Department of Environmental Protection. At the request of an applicant the Planning Board, with approval of the Department of Public Works, may waive the Design Standards under the Subdivision Rules and Regulations provided the Board determines such exceptions are in the public interest, and that the waiver furthers the purposes of this Section. Individual or community septic systems may be allowed, subject to

Board of Health and/or Department of Environmental Protection approval, regulations, conditions and restrictions. Public water and sewer infrastructure shall not be constructed or paid for by the Town.

vi. Drainage: The Planning Board shall require the use of non-structural stormwater management techniques and other drainage techniques that reduce impervious surface and enable infiltration utilizing "Low Impact Development Techniques" for stormwater management recommended by the Massachusetts Department of Environmental Protection where feasible.

c. Common Open Space Area

iii. An area within the Open Space Buildable Parcel shall be designated as Common Open Space Area for the use by the residents of the OSCD. At least 800 square feet per bedroom shall be designated as Common Open Space Area. Common Open Space Area may be used for active, passive or leisure activities.

iv. Common Open Space Area shall meet the following minimum standards:

a. The wetlands or slopes greater than 15 percent shall not comprise more than 25 percent of the Common Open Space Area, as identified in the Preliminary Plan, Section V.N.2.b.i. herein.

d. Open Space and Connectivity

i. A trail within the Open Space Preserved Area accessible to the general public shall be established connecting the Open Space Parcel with abutting open space parcels, trail networks, water resources, public amenities, public ways and/or neighborhoods.

ii. A minimum of two parking spaces shall be provided for public use, to be utilized while using the trail. One of the two parking spaces shall be ADA compliant. "No Overnight Parking" signage shall be installed.

iii. Public access details shall be determined during the public hearing process and written into the Conservation Restriction (CR) documents and the homeowners and/or condominium association documents.

4. Conservation Restriction

The Open Space Preserved Area shall be required to meet the following requirements:

a. The Town of Framingham acting through its Conservation Commission, a land trust, or the Commonwealth of Massachusetts shall hold the CR. The CR of the Open Space Preserved Area shall not remain under Open Space Preserved Area Owner. In no event may the land subject to the CR be combined, included or joined with or considered as part of the Open Space Parcel nor shall the owner of the Open Space Preserved Area hold the CR. In all cases, the terms of the CR, including the nature and extent of public access and provisions for property maintenance, must be reviewed and approved by the Planning Board and Town Counsel.

b. The entire Open Space Preserved Area shall be placed under a CR in perpetuity prior to the issuance of the first building permit at the expense of the Applicant, held by the Town of Framingham and a non-profit land trust.

c. The CR shall be drafted to include the provision that no active recreational facilities shall occur on the Open Space Preserved Area. The holder of the CR may allow for passive recreation opportunities on the Open Space Preserved Area through consent with the owner of the land.

d. All of the above restrictions must be written into the CR.

5. Application Review

a. Pre-Application Meeting

The applicant shall be required to attend a pre-application meeting with the Planning Board prior to submitting a formal application for OSCD. Materials shall be submitted prior to the meeting with the Planning Board and shall include preliminary plan and proposed Preliminary Plan as required in Section V.N.2.b.i and iv. The pre-application meeting, preliminary materials, and discussions within the meeting shall not be binding upon the Planning Board or Applicant for the final approval of the project.

b. Application Submittal

Application: The Applicant shall apply for a special permit and site plan review (Sec VI.F.) from the Planning Board.

c. Approval

The review procedure shall be in conformance with M.G.L. c. 40A, §§ 9, 11 and Section VI.E. of the Framingham Zoning By-law and other permitting and approval processes as may be applicable. The Planning Board may require the Applicant to fund project review consultants to assist in the technical review of the proposal in accordance with the Planning Board's Administrative Rules and Regulation and M.G.L. c.44, § 53G.

d. Homeowners and/or Condominium Association Documentation

Homeowner and/or Condominium Association Documentation shall be submitted to the Planning Board prior to the approval of an OSCD.

f. Variance Limitation

The Planning Board may issue a special permit under this Section, subject to the requirements of this By-law, and in accordance with the additional requirements and standards specified within this Section V.N., only if no variance has been issued from the requirements of this Section V.N., herein. A variance under Section V.N. shall render a property ineligible for the filing of an OSCD application and special permit under this section.

g. No Alterations

No substantial alteration to a parcel of land, which shall include tree removal, utility installations, ditching, grading or construction of roads, grading of land or lots, alteration of or near a wetland or vernal pool or excavation except for purposes of soil testing shall be done within 12 months prior to the filing of an OSCD application. The above activities shall render a property ineligible for the filing of an OSCD application and special permit under this section. For the purposes of soil testing and/or well testing the Applicant shall seek appropriate approvals through the Conservation Commission and the Board of Heath.

VI. ADMINISTRATION

A. ENFORCEMENT

1. This By-Law shall be enforced by the Building Commissioner.

2. Whoever violates any provision of this By-Law or any of the conditions under which a permit is issued by the Building Commissioner, or any decision rendered by the Zoning Board of Appeals or the Planning Board under the provisions of this By-Law shall be liable to a fine of not more than three hundred dollars for each violation. Each violation of this By-Law shall constitute a separate offense. Each day that any such violation shall continue shall constitute a separate offense. Alternatively, the Building Commissioner may enforce this By-law using the noncriminal penalty method provided in G.L. c. 40, §21D, in which case the noncriminal penalty shall be $50.00 for each offense.

3. If the Building Commissioner shall be informed or has reason to believe that any provision of this By-Law or of any permit or decree thereunder has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an inspection of the property where the violation may exist, and, if he finds any violation, he shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises, and shall order that any violation of the provision of this By-Law shall immediately cease.

4. If, after such notice and order, such violation continues, or if any owner, agent or occupant fails to obey any lawful order of the Building Commissioner with respect to any violation or any use contrary to the provisions of this By-Law, the Building Commissioner may revoke any permit issued for the occupation of the premises, may make complaint to the Superior Court or any court of competent jurisdiction for an injunction or order restraining the further use of the premises, and may take such other action as is necessary to enforce the provisions of this By-Law.

B. BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

1. No building permit for new building construction, excluding additions to existing structures, shall be issued until a grading plan prepared by a Registered Land Surveyor and/or a Registered Professional Engineer has been submitted to the Building Commissioner as part of the application for said building permit and approved in writing by him. The requirement for said grading plan may be waived by the Building Commissioner with the approval of the Planning Board, Board of Health and Board of Public Works. The property shall be graded as to prevent flooding, erosion, and low spots that will not drain and create a public nuisance. Where low spots cannot be avoided, they shall be drained by means of drain pipes no smaller than twelve inches diameter, and catch basins or other approved inlet structure, to the nearest street drains, or other approved drainage facility.

2. A principal or accessory building, structure or use that is intended for occupancy, and that requires a building permit to be erected, altered or in any way changed as to construction or use, may not be occupied until an occupancy permit is issued by the Building Commissioner certifying compliance with this By-Law.

The Planning Board shall give its approval for occupancy permits for matters under its jurisdiction before a certificate of use and occupancy is issued by the Building Official.

No occupancy permit for new building construction excluding additions to existing structures shall be issued until an "*as-built*" plan prepared by a Registered Land Surveyor or Registered Professional Engineer shall have been filed with the Building Official and approved in writing by him. Said plan shall show the location of the structure, drainage patterns, location of drainage and sanitary sewerage structures above and below ground, property lines, distances of the structure to lot lines and to other buildings on the lot, and such grades and other information as the Building Official deems necessary. The construction shall conform to all setback requirements of the Zoning By-Law. The property shall be graded as to prevent

flooding, erosion, and low spots that will not drain and create a public nuisance. Where low spots cannot be avoided, they shall be drained by means of drain pipes no smaller than twelve inches in diameter, and catch basins or other approved inlet structure, to the nearest street drains, or other approved drainage facility.

Upon completion of foundation(s) the holder of the building permit will file an updated plot plan signed by a registered professional engineer or registered land surveyor showing that the foundation(s) has been located as specified on the approved plan. This section is not intended to include an addition to a privately owned single family residence, provided said addition conforms to all other requirements of the Building and Zoning By- Laws. The holder of said permit may proceed at his own risk.

The updated plot plan shall contain the following notation signed by the engineer or surveyor:

PLAN OF LAND
FRAMINGHAM, MASSACHUSETTS

I hereby certify that the lot corners, dimensions, elevations and offsets to the proposed building or structure as shown on this plan are correct and conforming to Town of Framingham Zoning By-Laws and Regulations.

SIGNED:_____
BY: _____
DATE:_____

C. NOTIFICATION OF PUBLIC HEARINGS

In all cases where public hearings are required, notice of such hearings shall be given by the responsible board and at the expense of the applicant by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the town hall for a period of not less than fourteen days before the day of such hearing. Said notice shall be sent to interested parties by mail, which shall include Town Meeting Members from precincts affected, petitioners, abutters, owners of land directly opposite on any public or private street or way and owners of land within three hundred feet of the property line all as they appear on the most recent applicable tax list, the Planning Board of the town, and the planning boards of communities abutting the town.

D. ZONING BOARD OF APPEALS

l. Establishment, Membership and Rules

The Zoning Board of Appeals, also referred to as the Board of Appeals, shall consist of three members, appointed by the Board of Selectmen for terms of such length and so arranged that the term of one member shall expire each year. Its members shall serve without compensation. Any member may be removed for cause by the Board of Selectmen upon written charges and after public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. The Board of Selectmen shall also appoint at least four associate members annually, any one of which may be designated by the Chairman of the Board of Appeals to sit on said Board because of the vacancy, inability to act, conflict of interest, or absence of a regular member. The Board of Appeals shall adopt rules consistent with provisions of this By-Law for the conduct of its business and the purposes of M.G.L. Ch. 40A and shall file a copy of such rules with the Town Clerk.

2. Powers

The Board of Appeals shall have the following powers:

a. To hear and decide appeals in accordance with M.G.L. Ch.40A, Section 8, including the following:

(l) appeals by persons aggrieved by reason of their inability to obtain a permit or enforcement action from the Building Commissioner under the provisions of M.G.L. Ch. 40A.

(2) appeals by persons aggrieved by an order or decision of the Building Commissioner in violation of any provision of M.G.L. Ch. 40A or of this By-Law.

b. To hear and decide applications for special permits upon which the Board is empowered to act, in accordance with the provisions of Section VI.E.

c. To hear and decide applications for special permits, in accordance with the provisions of Section VI.E., for the establishment of temporary structures and uses that do not conform to the uses and regulations herein prescribed, with such conditions as will protect the community, provided that no such permit shall be for more than a one-year period.

d. To hear and decide petitions for variances as set forth in Section VI.F.

In exercising these powers, the Board of Appeals may make orders or decisions; may reverse or affirm in whole or in part or modify any order or decision of the Building Commissioner under chapter 40A ; and may direct the issuance of a permit.

E. SPECIAL PERMITS

l. Special Permit Granting Authority

a. The SPGA shall be the Board of Appeals, except where another Board or officer is specifically designated as the SPGA for a particular type of special permit.

b. The Planning Board as the SPGA:

(1) There shall be one Associate Member of the Planning Board in cases where the Planning Board acts as the SPGA. Such position of Associate Member shall be subject to the following:

(a) The Associate Member shall serve by appointment made jointly by the Planning Board and the Board of Selectmen.

(b) The Board of Selectmen and the Planning Board shall appoint an Associate Member by majority vote of the combined membership of both Boards. The term of office shall expire on July 1, or until a successor is appointed and qualified. Thereafter, an Associate Member shall be appointed on an annual basis by the Board of Selectmen and Planning Board acting jointly.

(c) In the event of a vacancy in the position of Associate Member, the position shall be filled in the same manner as in the case of the original appointment.

(d) The Chairperson of the Planning Board may require such Associate Member to be in attendance at special permit hearings, and may designate such Associate Member to sit on the Board for the purpose of acting on a special permit application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

2. Procedure for Special Permit

a. Application

Prior to the filing of an application for a special permit, the Applicant shall submit plans to the Building Commissioner. The Building Commissioner shall advise the applicant in writing as to the pertinent sections of the Zoning By-Law and shall determine which board is the appropriate SPGA. The applicant shall then submit four or more copies (as may be required) of the application and plans to the designated SPGA and shall forthwith file one copy with the Town Clerk. The SPGA shall transmit copies thereof to the Building Commissioner and other appropriate Town Boards and offices, as determined by the SPGA. If the Board of Appeals is the SPGA, it shall forthwith transmit copies to the Planning Board which may, within 35 days of the date of filing with the Town Clerk, submit a report to the Board of Appeals and to the applicant containing recommendations and reasons

therefor to aid the Board of Appeals in judging the application. The Board of Appeals shall not hold a hearing or render a decision on any application until said report has been received and considered, or until the 35-day period has expired, whichever is earlier. Failure of the Planning Board or other Town Boards and offices to submit said report within the specified time period shall be deemed concurrence thereto.

b. Hearings

The SPGA shall hold a hearing on said application in accordance with G. L. Ch. 40A, Section ll, within 65 days of filing with the Town Clerk. Notice of such hearings shall be published by the SPGA as provided in chapter 40A and Section VI.C of this By-law.

c. Decisions

The decision of the SPGA shall be made within 90 days following the public hearing for a special permit. A special permit issued by an SPGA shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five-member board and a unanimous vote of a three-member board.

The Board shall make an audible audio tape recording of all its proceedings and deliberations. Such recordings shall be kept in the offices of the SPGA for a period of two years, and shall be made available to any person for listening or copying purposes during regular business hours in the offices of the SPGA.

The SPGA shall also keep a detailed written record of the proceedings as required by law, copies of which shall be filed within 14 days with the Town Clerk, and notices of decisions sent to the appropriate persons as required in G.L. 40A, Section 11. Said notices shall set forth the nature and vote of the decision, the reasons therefor, and any conditions and safeguards prescribed by the Board in said decision. Notice of the nature and vote of the decision shall be published once by the SPGA in a newspaper of general circulation in the Town, at the expense of the applicant, said publication to occur no more than twelve calendar days after the filing of the decision with the Town Clerk. Said notices shall also be mailed to the chairperson of the precinct in which the property is located, as well as the chairperson of the Town Meeting Standing Committee on Planning and Zoning, whose names shall be provided to the SPGA by the Town Clerk following their election.

d. Failure to Act

As provided in G.L. c. 40A, Section 9, failure by the special permit granting authority to take final action within ninety days following the public hearing or extended time, if applicable, shall be deemed to be a grant of the special permit. The petitioner who seeks such approval by reason of the failure of the special permit granting authority to act within such time prescribed, shall notify the town clerk, in writing within fourteen days from the expiration of said ninety days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest by mail and each such notice shall specify that appeals, if any, shall be made pursuant to section seventeen and shall be filed within twenty days after the date the town clerk received such written notice from the petitioner that the special permit granting authority failed to act within the time prescribed.

e. Change, Extension or Modification of a Special Permit

Any change, extension or modification of a special permit shall require a concurring vote of all three members of a three member board and four of the five members of a five member board.

3. Conditions of Approval of Special Permit

a. The SPGA shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

(l) The specific site is an appropriate one for such a use or structure.

(2) Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. Except for residences requiring fewer than five stalls, adequacy of proposed off-street parking facilities shall be determined by the Planning Board, in accordance with the provisions of Section IV.A., IV.B., IV.C. and VI.E. of this By-Law.

(3) The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians.

(4) The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law.

(5) All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient.

b. In approving a special permit, the SPGA may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, such as:

(l) Requirement of screened parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting, or other devices.

(2) Modification of the exterior features or appearance of the structure.

(3) Limitation of size, number of occupants, method or time of operation, or extent of facilities.

(4) Regulation of number, design, and location of access drives or other traffic features.

(5) A bond or other security to insure compliance with the conditions of authorization.

The Applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a special permit.

4. Repetitive Application

No application which has been unfavorably and finally acted upon by the SPGA shall be reconsidered within two years after the date of final unfavorable action, unless said authority finds specific and material changes in the conditions upon which the previous unfavorable action is based, and only after notice is given to interested parties of the time and place of the proceedings when the question of such consent is considered. Four out of five members of the Planning Board must consent to such reconsideration. The application procedure and the consent shall be in accordance with the procedures for all special permits specified in Section VI.E.2. herein.

5. Expiration of Special Permit

Pursuant to MGL , Chapter 40A §9, a special permit granted under this section shall lapse within two years, not including such time required to pursue or await the determination of an appeal as referred to in MGL , Chapter 40A §17, from the grant thereof, if a substantial use thereof has not sooner commenced expect for good cause, or in the case of a permit for construction, if construction was not begun by such date expect for good cause.

F. SITE PLAN REVIEW

1. Purpose

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which may have significant impacts on traffic, municipal and public services and utilities, environmental quality, community economics, and community values in the Town.

2. General Provisions

The Planning Board shall conduct site plan review and approval. Notwithstanding any provision of this By-Law to the contrary, any structure, use, alteration or improvement which meets any of the following criteria shall require site plan review and approval as set forth in this section:

a. The following shall be subject to the provisions of the first paragraph of Section VI.F.5, herein with regard to Contents and Scope of Applications: (1) any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development of any off-street parking or loading facilities (except for residences requiring fewer than five stalls) and less than 8,000 square feet of gross floor area; (2) any new construction or expansion, alteration or enlargement of a parking facility, off-street loading facility and/or any facility for the storage or sale of any type of new or used vehicle, including construction vehicles, truck trailers and/or any vehicle which would normally require licensing by the Commonwealth of Massachusetts;

b. any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development, redevelopment, reuse, change in use, or increase of at least 8,000 square feet of gross floor area, or which requires the provision of 30 or more new or additional parking spaces under this By-Law, or which results in a floor area ratio (FAR) greater than 0.32, shall be subject to this Section VI.F. in its entirety;

c. any new structure, or group of structures under the same ownership on the same lot or contiguous lots, which results in the development of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section VI.F. in its entirety.

d. any substantial improvement or substantial alteration or change in use of an existing structure or group of structures which results in the development, redevelopment, reuse, change in use or an increase of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I in its entirety.

e. Mixed Use and Mixed Use Complex in the Central Business District are subject to this Section VI.F in its entirety.

For purposes of this Section VI.F, the calculation of increase in floor area shall be based on the aggregate of all new structures, improvements, alterations or enlargements, calculated from the date of enactment of this section.

3. Basic Requirements

a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use, alteration or improvement subject to this section unless an application for site plan review and approval has been prepared for the proposed development in accordance with the requirements of this section, and unless such application has been approved by the Planning Board.

b. The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements in Subsection 5 and the development impact standards in Subsection 6. Such waiver shall be issued in writing with supporting reasons.

c. No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development and any associated off-site improvements conform to the approved application for site plan review and approval, including any conditions imposed by the Planning Board.

4. Application and Review Procedure

a. Prior to the filing of an application pursuant to this section, the applicant shall submit a preliminary draft of such application to the Building Commissioner, who shall advise the applicant as to the pertinent sections of this Zoning By-law.

The applicant is encouraged to meet with the Planning Board for a pre-application conference prior to submitting a formal application. The purpose of the conference is to identify the scope of the proposed development, timeline for review, and need for potential outside consultants and to identify special development issues and necessary applications, permits and approvals required in preparation for a formal filing. Materials that are typically helpful to facilitating the conference include preliminary concept plan alternatives.

b. The applicant shall submit to the Planning Board the application for site plan approval, conforming to the requirements of this Section VI.F. and as specified on the application. Upon receiving the completed application, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, , the Community and Economic Development Department, the Police Department, the Fire Department, the Department of Public Works and such other departments and boards as the Planning Board may determine appropriate.

c. Such agencies shall, within 35 days of receiving said copy, report to the Planning Board on (1) the adequacy of the data and the methodology used by the applicant to determine impacts of the proposed development and (2) the effects of the projected impacts of the proposed development. Said agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such

agency to report within the allotted time shall be deemed lack of opposition by that agency of the adequacy of the submittal and also that, in the opinion of-that agency, the proposed project will cause no adverse impact

d. The Planning Board shall not render a decision on said application until it has received and considered all reports requested from Town departments and boards, or until the 35-day period has expired, whichever is earlier. Where circumstances are such that the 35-day period is insufficient to conduct an adequate review, the Planning Board may, at the written request of the applicant, extend such period to 60 days.

e. The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing, shall properly serve notice of such hearing, and shall render its decision within 90 days of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. c.40A section 11, and with the requirements of Section VI.C. of this By-Law. All costs of the notice requirements shall be at the expense of the applicant.

f. In reviewing the impacts of a proposed development, the Planning Board shall consider the information presented in the application for site plan approval, including all items specified in Section VI.F.5.; all reports of Town departments submitted to the Planning Board pursuant to Section VI.F.4.(c); and any additional information available to the Planning Board, submitted to the Planning Board by any person, official or agency, or acquired by the Planning Board on its own initiative or research.

g. The corner points and angle changes of the subject property lines shall be clearly marked in the field.

h. If the Applicant's proposed development is located within 200 feet of a residential district or residential use, the Applicant is strongly encouraged to coordinate at least one informational meeting with residents through the Town Meeting Representatives in the applicable precinct(s), including adjacent precinct(s), to solicit public input. The Applicant shall submit a statement regarding the extent of communication with residents of the area about the proposed development with its application submittal. The Applicant shall post a Community Notice in a conspicuous location on the subject property. The Community Notice shall be as prescribed by the Planning Board, informing the public of the proposed Site Plan Application for the property. Said Community Notice shall be posted at least five days prior to an application submittal to the Planning Board, and shall be considered an application requirement.

5. Contents and Scope of Applications

An application for site plan review and approval under Section VI.F.2.a shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall be limited to a parking plan, pursuant to subsection 5.f, herein, containing items 1-15 as set forth in subsection 5.a, below, an environmental impact assessment, as set forth in subsection 5.g.(2), below, and a parking impact assessment, as set forth in subsection 5.g.(5), below. The Planning Board may require additional information be provided by the applicant, including but not limited to a Traffic Impact Assessment, should traffic and circulation matters or other development related issues be deemed important considerations to a site plan evaluation and decision.

An application for site plan review and approval under Section VI.F.2.b or 2.c or 2.d or 2.e shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall include:

a. A site plan at a scale of one inch equals twenty feet (1"=20'), or such other scale as may be approved by the Planning Board, containing the following items and information:

1. Topography of the property, including contours at a 2 foot interval based on the most recent National Geodetic Vertical Datum (NVGD).

2. Location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 ft.

3. Dimensions of proposed buildings and structures, including gross floor area, floor area ratio, total lot coverage of building, and breakdown of indoor and outdoor floor area as to proposed use. Area dimensions to include Lot Coverage of Building, Paved Surface Coverage, and Landscaped Open Space and Other Open Space, with percentages of these items to be provided and to total 100 percent of the lot area.

4. Maximum seating capacity, number of employees, or sleeping units if applicable.

5. Locations and dimensions, including total ground coverage, of all driveways, maneuvering spaces and aisles, parking stalls and loading facilities, and proposed circulation of traffic.

6. Location of pedestrian areas, walkways, flow patterns and access points, and provisions for handicapped parking and access, and bicycle accommodations.

7. Location, size, and type of materials for surface paving, curbing, and wheel stops.

8. Location, dimension, type and quantity of materials for open space, planting, and buffers where applicable.

9. Provisions for storm water drainage affecting the site and adjacent parcels, and snow storage areas. Drainage computations and limits of floodways shall be shown where applicable.

10. A photometric plan showing both the intensity of illumination expressed in footcandles at ground level to the property's boundaries and the location, orientation, height, wattage, type, style and color of outdoor luminaire(s) for all existing and proposed lighting.

l1. Identification of parcel by sheet, block, and lot number of Assessors Maps.

12. Planning Board Signature Block at approximately the same location on each page of the submitted plans.

13. Zoning Table to be located on both the front page of the submitted plans and on the Parking Plan/Site Plan page.

14. Water service, sewer, waste disposal, and other public utilities on and adjacent to the site.

15. An area designated for the storage of waste and refuse.

16. Sign submittal showing sign locations and construction details which shall include the following information as may be applicable: a scaled drawing of each proposed sign showing all dimensions, colors, lettering, graphics, materials and type of illumination; scaled drawing showing all dimensions of facades proposed to contain signage and indicating the location and dimensions of the proposed sign and any landscaped or other areas in which a freestanding sign is to be placed clearly showing the locations of the sign.

17. Any additional information required by the Planning Board to ensure compliance with this section. The Planning Board may waive any of the above requirements.

For convenience and clarity, this information may be shown on one or more separate drawings.

b. A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.

c. An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries.

d. A locus plan at a scale of one inch equals 100 feet (1"=100'), or such other distance as may be approved by the Planning Board, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board.

e. Building elevation plans at a scale of one-quarter inch equals one foot (1/4"=1'-0") or one-half inch equals one foot (1/2"=1'-0") or such other scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.

f. A parking plan, at the same scale as the site plan.

g. A Development Impact Statement which shall describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall consist of the following five elements

(1) Traffic Impact Assessment

(a) Purpose: To document existing traffic conditions, which includes vehicle, pedestrian and bicycle accommodations, in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic.

(b) Format and Scope:

(i) Existing traffic conditions average daily and peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data are specifically approved by the Planning Board. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Planning Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

(ii) Projected traffic conditions for design year of occupancy: statement of design year of occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part or in whole by the Town.

(iii) Projected impact of proposed development: projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post-development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in (i) above).

(2) Environmental Impact Assessment

(a) Purpose: To describe the impacts of the proposed development with respect to on-site and off-site environmental quality

(b) Format and Scope:

(i) Identification of potential impacts: description and evaluation of potential impacts on the quality of air, surface water, and ground water adjacent to or directly affected by the proposed development; on-site or off-site flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious area; on-site or off-site hazards from radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light impacts.

(ii) Systems capacity: evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.

(iii) Proposed mitigation measures: description of proposed measures for mitigation of any potential adverse impacts identified above.

(iv) The Stormwater Impact Analysis shall describe the impacts of the proposed development on the quality, volume and rate of on-site and off-site stormwater runoff. The format and scope of the analysis shall identify any potential impacts of stormwater runoff and shall demonstrate compliance with the Massachusetts Department of Environmental Protection's Stormwater Management Standards, 310 CMR 10.00 using the guidelines and structure set forth in the latest edition of the Massachusetts Stormwater Handbook.

(3) Fiscal Impact Assessment

(a) Purpose: To evaluate the fiscal and economic impacts of the proposed development on the Town.

(b) Format and Scope:

(i) Projections of costs arising from increased demands for public services and infrastructure.

(ii) Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.

(iii) Projections of the impacts of the proposed development on the values of adjoining properties.

(iv) Five-year projection of increased Town revenues and costs resulting from the proposed development.

(4) Community Impact Assessment

(a) Purpose: To evaluate the impacts of the proposed development with respect to the Town's visual and historic character and development goals.

(b) Format and Scope:

(i) Site design and neighborhood impact: evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements); and of the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties.

(ii) Historic impact: identification of impacts on significant historic properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development.

(iii) Development goals: evaluation of the proposed project's consistency or compatibility with existing local and regional plans.

(5) Parking Impact Assessment

(a) Purpose: To document existing neighborhood parking conditions, to evaluate the off-site impacts of the proposed parking, and to mitigate any adverse parking impacts on the neighborhood.

(b) Format and Scope:

(i) existing off-site neighborhood parking conditions, including identification of streets likely to be affected by the proposed development;

(ii) projected impact of proposed development;

(iii) proposed mitigation measures for adverse impacts identified above.

The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements of the development impact assessment listed in this paragraph g. Such waiver shall be issued in writing with supporting reasons.

6. Development Impact Standards

The following standards shall be used in evaluating projected impacts of proposed developments; provided, however, that an application for site plan review and approval under Section VI.F.2.a shall be evaluated using only the standards contained in Section VI.F.6.b. and Section VI.F.6.e, below. New building construction or other site alteration shall be designed, to the extent feasible, and after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to comply with the following standards:

a. Traffic Impact Standards

(1) The "level of service" (LOS) of all impacted intersections and streets shall be adequate following project development, or the total value of off-site traffic improvements required or approved by the Planning Board as a condition of approval in any location within the Town affected by the proposed project shall be equal to a minimum of three per cent (3%) of the total development cost of the proposed project. For purposes of this standard:

(i) "**level of service**" (LOS) shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council;

(ii) "**impacted**" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project;

(iii) "**adequate**" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections; and

(iv) "**total development cost**" shall mean the total of the cost or value of land and all development-related improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the Planning Board, for the relevant type of structure and use.

(2) The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

(i) Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.

(ii) Where possible, driveways shall be located opposite similar driveways.

(iii) Sharing of access driveways by adjoining properties and uses is encouraged.

(iv) Left-hand turns and other turning movements shall be minimized.

(v) Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.

(vi) Pedestrian and bicycle circulation shall be provided for in the site design and shall be separated from motor vehicle circulation as far as practicable.

b. Environmental Impact Standards

(1) The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact.

(2) The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on- site or on neighboring properties; and shall not increase rates of runoff from the site to the satisfaction of the Town Engineer and Board of Public Works. Provision for attenuation of runoff pollutants and for ground water recharge shall be included in the proposal. The proposed development shall comply with Massachusetts Department of Environmental Protection's (DEP's) Stormwater Management Standards, 310 CMR 10.00.

(3) The design of the proposed development shall minimize the destruction of unique natural features.

(4) The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.

(5) Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.

(6) Proposed structures, and existing structures adjoining the project site shall be free from shadows created by the proposed development from 9:00 a.m. to 3:00 p.m. on December 21. Proposed development within the Central Business District shall be exempt from this standard.

(7) All outdoor lighting shall be designed and located so that a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site; except that this requirement shall not apply to (a) low-level intensity pedestrian lighting with a height of less than ten feet, or (b) security lighting directed off the wall of a principal structure.

c. Fiscal Impact Standards

(1) Projected positive net fiscal flow for first five years after design year of occupancy.

d. Community Impact Standards

(1) Design elements shall be compatible with the character and scale of neighboring properties and structures.

(2) The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc. All utilities within the property boundaries that are intended to serve the project shall be placed underground. If waste or refuse disposal areas are located outside of any existing or proposed building, the waste and refuse shall be placed in a container kept fully closed. Such containers shall be surrounded entirely by solid fencing or other material as approved by the Planning Board and incorporated into the site design and landscaping. Adequate waste and refuse facilities shall be provided for all proposed uses.

(3) The design of the development shall be consistent or compatible with existing local plans, including plan elements adopted by the Planning Board, Conservation Commission, Parks Commission, and other Town bodies having such jurisdiction.

(4) The design of the development shall minimize earth removal and volume of cut and fill. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.

(5) The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized and, if established trees are to be removed, special attention shall be given to the planting of replacement trees.

e. Parking Standards

(1) The facility will not create a hazard to abutters, vehicles or pedestrians.

(2) Appropriate access for emergency vehicles will be provided to the principal structure.

(3) Adverse impacts on the abutters, residents, or businesses in the area or on the character of the neighborhood will be mitigated satisfactorily.

(4) The snow storage area(s) shall be located so as not to encroach upon or obstruct any sidewalks or walkways or parking spaces, interior travel lanes or lot ingress/egress, inhibit site visibility, reduce the recommended minimum stopping sight distances or turning radii at any point on the site, or obstruct or encroach upon fire lanes or emergency access points.

7. Decision

a. Specific Findings Required

Prior to granting approval or disapproval, the Planning Board shall make written findings with supporting documentation as specified below. Such findings shall pertain to the entire proposed development including any site plan or design modifications imposed by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

b. Approval

The Planning Board shall approve an application, based on its review of the projected development impacts and the proposed methods of mitigating such impacts, if said Board finds that the proposed development is in conformance with this By-Law, after considering whether the proposed development will comply, to the extent feasible, with the standards set forth in Sections VI.F.6.(a) - (e); provided, however, that an application for site plan review and approval under Section VI.F.2.a shall be evaluated using only the standards contained in Section VI.F.6.b. and Section VI.F.6.e.

c. Disapproval

(1) The Planning Board may reject a site plan that fails to furnish adequate information required by the by-law;

(2) The Planning Board may reject a site plan where, although proper in form, the plan depicts a use or structure so intrusive on the needs of the public in one regulated aspect or another that rejection by the board would be tenable.

d. Expiration

A site plan review approval granted under this section shall lapse within two years, not including such time required to pursue or await the determination of an appeal as referred to in MGL, Chapter 40A §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction was not begun by such date except for good cause.

8. Conditions, Limitations and Safeguards

In granting approval of an application the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include, among other matters and subjects:

a. Controls on the location and type of access to the site;

b. Controls on the number of vehicles that arrive or depart during the morning and/or evening peak hours (including controls on the maximum number of vehicles which may use the off-street parking areas during said periods);

c. Requirements for off-site improvements up to a maximum value of six per cent (6%) of the total development cost of the proposed project to improve the capacity and safety of roads, intersections, pedestrian ways, water, sewer, drainage and other public facilities which are likely to be affected by the proposed development;

d. Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widenings or improvements;

e. Requirements for securing the performance of all proposed work, including proposed off-site improvements, by either or both of the following methods: (1) a performance bond, a deposit of money, negotiable securities, letter of credit, or bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required as conditions of approval; (2) a covenant running with the land, executed and duly recorded by the owner of record, whereby the required improvements shall be completed before the property may be conveyed by other than a mortgage deed.

f. Conditions to minimize off-site impacts on traffic and environmental quality during construction.

g. Requirements for reductions in the scale of the proposed development, including reductions in height, floor area, or lot coverage, provided, however, that any such reduction be limited to that which is reasonably necessary to reduce the level of impact of the proposed development to a level that will permit the Board to make the written findings required under Section VI.F.7.(a) herein.

h. Requirements for screening parking facilities from adjoining premises or from the street by walls, fences, plantings, or other devices to mitigate adverse impacts;

i. Conditions to mitigate adverse impacts to the neighborhood and abutters, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation, or snow storage.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of site plan approval.

9. Administration

a. The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.

b. The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered complete unless accompanied by the required fees.

c. The Planning Board shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

d. Any person aggrieved by a decision of the Planning Board with regard to Site Plan Review may appeal such decision to a court having jurisdiction, in accordance with Massachusetts General Laws, Chapter 40A, Section 17.

G. VARIANCES

l. Limitation of Use Variances

A variance authorizing a use or activity not otherwise permitted in the district in which the land is located shall be prohibited in Geriatric Care/Elderly Housing Districts, single residence and general residence districts, but may be allowed by the Board of Appeals in other zoning districts in accordance with G.L. c. 40A, §10 except as otherwise prohibited in Section II.C of this By-law.

2. Procedure for Variance

a. Application

Prior to the filing of a petition for a variance, the Applicant shall submit a building permit application and plans to the Building Commissioner who shall advise the applicant in writing as to the sections of the Zoning By-Law with which

the application and plans are not in compliance. The Applicant shall then file six copies of an appeal or petition for a variance with the Town Clerk, who shall forthwith transmit copies of the application and accompanying plans to the Board of Appeals, Planning Board, and Building Commissioner. The Planning Board may, within 2l days of the date of filing with the Town Clerk, submit a report to the Board of Appeals containing recommendations and reasons therefor to aid the Board of Appeals in judging the application. The Board of Appeals shall not hold a hearing or render a decision on any appeal or petition for a variance until said report has been received and considered or until the 2l-day period has expired, whichever is earlier. Failure of the Planning Board to submit said report within the specified time period shall be deemed lack of opposition thereto.

Petitioning for a variance under the procedures of this Section and a subsequent approval of such variance by the Board of Appeals does not supersede the requirement to obtain a special permit for Off-Street Parking, as applicable, under the procedures of Sections IV.A., IV.B., IV.C. and VI.E. of this By-Law.

b. Hearings

The Board of Appeals shall hold a hearing on said petition for a variance within 65 days of the date of filing with the Town Clerk. Notice of such hearings shall be published by the Board of Appeals as provided in chapter 40A and Section VI.C of this By-law

c. Decisions

The decision of the Board of Appeals shall be made within 100 days after the date of filing of any petition for a variance with the Town Clerk. The concurring vote of all of the members of the Board shall be necessary to render a decision on any petition for a variance.

The Board shall make an audible audio tape recording of all its proceedings and deliberations. Such recordings shall be kept in the offices of the Zoning Board of Appeals for a period of two years, and shall be made available to any person for listening or copying purposes during regular business hours in the offices of the Zoning Board of Appeals.

The Board of Appeals shall also keep a detailed written record of the proceedings as required by law, copies of which shall be filed within 14 days with the Town Clerk, and notices of decisions sent to the appropriate persons as required in Massachusetts General Laws, Chapter 40A, Section 15. Said notices shall set forth, the nature and vote of the decision, the reasons therefor, and any conditions and safeguards prescribed by the Board in said decision. Notice of the nature and vote of the decision shall also be published once by the Board of Appeals in a newspaper of general circulation in the Town, at the expense of the applicant, said publication to occur no more than twelve calendar days after the filing of the decision with the Town Clerk. Said notices shall also be mailed to the chairperson of the precinct in which the property is located, as well as the chairperson of the Town Meeting Standing Committee on Planning and Zoning, whose names shall be provided to the Zoning Board of Appeals by the Town Clerk following their election.

d. Failure to Act

As provided in G.L. c. 40A, §15, the decision of the Board of Appeals shall be made within one hundred days after the date of the filing of any petition for variance. The required time limit may be extended by written agreement between the applicant and the Board of Appeals. A copy of such agreement shall be filed in the office of the city or town clerk. Failure by the Board of Appeals to act within said one hundred days or extended time, if applicable, shall be deemed to be the grant of the petition. The petitioner who seeks such approval by reason of the failure of the Board of Appeals to act within the time prescribed shall notify the town clerk, in writing, within fourteen days from the expiration of said one hundred days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest, by mail and each notice shall specify that appeals, if any, shall be made pursuant to G.L. c. 40A, §17 and shall be filed within twenty days after the date the town clerk received such written notice from the petitioner that the board failed to act within the time prescribed.

3. Conditions of Issuance of Variances

The Board of Appeals may authorize a departure from terms of this By-Law, except as limited above, provided that each of the following conditions is met:

(1) There are circumstances relating to the soil conditions, shape, or topography of the land or structures for which the variance is being sought.

(2) Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.

(3) Owing to such circumstances, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

(4) The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the purpose and intent of this By-Law or from the intent of the district in which the variance is being sought.

4. Variances in Floodplain Districts

a. The Board of Appeals may grant a variance from Section III.A.3. e and f. (floodplain management regulations) in the following circumstances.

(1) A variance may be issued for new construction and substantial improvement to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing buildings constructed below the base flood level, in conformance with section 3 above and in conformance with sections b., c., and d. below.

(2) The granting of the variance shall not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with state or local laws or ordinances.

(3) A variance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) The ZBA shall notify the applicant in writing that the issuance of a variance to construct a building below the base flood level and/or lacking adequate floodproofing will result in increased premium rates for flood insurance up to amounts as high as $25 for $l00 of insurance coverage and that such construction increases risks to life and property.

b. A variance may be granted for construction on a lot that does not comply with section a.l. above, but only in extraordinary and exceptional circumstances. In such cases the ZBA should be aware that the Federal Insurance Administrator may review the findings justifying the granting of such variances, and if that review indicates a pattern **i**nconsistent with the objectives of sound flood plain management, the Town's participation in the Flood Insurance Program may be jeopardized.

c. Variances may be issued by the ZBA for the reconstruction, rehabilitation, or restoration of buildings listed on the National Register of Historic Places, or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

d. Variances shall not be granted by the ZBA within any designated regulatory floodway under any circumstances.

5. Repetitive Petition

No petition for a variance which has been unfavorably and finally acted upon by the Board of Appeals shall be reconsidered within two years after the date of final unfavorable action unless said Board finds specific and material changes in the conditions upon which the previous unfavorable action was based, subject to consent of four out of five members of the Planning Board, and only after notice is given to interested parties of the time and place of the proceedings when the question of such consent is considered.

H. SEVERABILITY

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

VII. DESCRIPTIONS OF BOUNDARIES OF ZONING DISTRICTS

A. INCORPORATION OF THE ZONING MAP

The boundaries of the zoning districts are hereby established as shown on the Map which accompanies, and is hereby declared to be part of this By-Law. Descriptions of boundaries of Zoning Districts are filed in the Town Engineering Office.

☞EXPLANATORY NOTES REGARDING ZONING MAP☜

The Zoning Map of the Town, prepared by the Town Engineer's office and dated June 18, 2013, includes all of the map changes made by Town Meetings up to that date. Amendments to the Zoning Map after that date are provided with the purchase of the Zoning Map of the Town.

In accordance with the tabulation in Section II.A., "CLASSES OF DISTRICTS", the map symbols have been correlated with their corresponding districts as follows:

DISTRICTS	MAP SYMBOLS
RESIDENCE DISTRICTS:	
Single Residence	**R-1,R-2, R-3 and R-4**
General Residence	**G**
Geriatric Care/Elderly Housing	**G-E**
BUSINESS DISTRICTS	
Neighborhood Business	**B-1**
Community Business	**B-2**
General Business	**B-3 AND B-4**
Business	**B**
Central Business	**CB**
Office and Professional Districts	**P**
Open Space and Recreation Districts	**OSR**
Planned Reuse Districts	**PRD**
INDUSTRIAL DISTRICTS:	
Light Manufacturing Districts	**M-1 (Light Manufacturing)**
General Manufacturing	**M (Manufacturing)**
Technology Park	**TP**
OVERLAY DISTRICTS:	
Planned Unit Development Districts	**(PUD)**
Highway Corridor Districts	**(HC)**
Regional Center District	**(RC)**
Adult Use District	**(AU)**
Floodplain Districts	**See FIRM & Floodway Maps (FEMA)**
Groundwater Protection District	**(GPD)**

Area districts designating lots sizes in the community are shown on the Zoning map by the symbols in accordance with the following correlation.

MAP SYMBOL	MINIMUM LOT SIZE
R-4	43,560 square feet
R-3	20,000 square feet
R-2	12,000 square feet
R-1	8,000 square feet
G	8,000 square feet

APPENDIX 1 - LAWS AND REGULATIONS GOVERNING LAND USE

Land use in the Town of Framingham is subject to regulation under various state and local laws and by-laws. In addition to the Zoning By-Law (and its statutory authority, "THE ZONING ACT", Chapter 40A of the Massachusetts General Laws), these laws and by-laws include the following:

1. **Subdivision of land** is regulated under Mass. Gen. Laws Ch. 41, Sections 81K - 81GG ("THE SUBDIVISION CONTROL LAW"), and the Framingham Planning Board's "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM", adopted pursuant to Ch. 41. The "RULES AND REGULATIONS" set forth standards for the construction of streets and municipal services and ensuring sanitary conditions in subdivisions.

2. **Development in wetlands** is regulated under Section 18. "Framingham Wetlands Protection By-Law" of Article V. "Health and Safety" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 8 of these Zoning By-Laws*) and the State Wetlands Protection Act, M.G.L. Ch. 131, Sec. 10, administered by the Framingham Conservation Commission and the Massachusetts Department of Environmental Management. The Framingham Wetlands Protection By-Law and the Wetlands Protection Act provide for public review of proposed projects which involve construction or other alterations of land in or near wetlands or other land which is subject to periodic flooding.

3. **"Nuisances"**, or specific conditions constituting a hazard or blight, may be regulated under Section 22 "Nuisance By-Law" of Article V "Health and Safety" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 2 of these Zoning By-Laws*), adopted pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by M.G.L. Ch. 139, Sec. 1 - 3A. Under this Bylaw, the Building Commissioner shall investigate reported nuisances, and where present, shall give notice to the owner and occupant to cease the nuisance. The Building Commissioner shall enforce this Bylaw via a court complaint, a fine, or other action as is necessary to enforce the provisions of the Nuisance Bylaw.

4. **Signs** are regulated under Section 1 "Sign By-Law" of Article VII. "Signs and Districts" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 3 of these Zoning By-Laws*), adopted pursuant to M.G.L. Chapters 93 and 43B. The Sign By-Law is enforced by the Building Commissioner.

5. **Off-street parking** is regulated by the Zoning By-Law (Sec. IV.A and IV.B.) and the Town's handicapped parking by-law (*see APPENDIX 4 of these Zoning By-Laws*). Both sets of regulations set forth similar standards with respect to handicapped parking: the principal difference is that whereas the Building Commissioner is responsible for enforcement of the Zoning By-Law, the Police Department is responsible for enforcement of the Handicapped Parking By-Law. Handicapped parking in the Town of Framingham is also governed by the standards of the "Americans with Disabilities Act" and the Massachusetts Architectural Access Board.

6. **Preservation of Historic or Architecturally Significant Buildings** is governed by Section 17A. "Demolition Delay By-Law for Historic or Architecturally Significant Buildings" of Article V. "Health and Safety" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 9 of these Zoning By-Laws*).

7. **Permits for Access to Public Ways** are regulated under Section 8 "Public Way Access Permits" of Article VI. "Roads, Highways, Bridges, Rubbish Disposal, Water and Sewer" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 10 of these Zoning By-Laws*).

8. **Scenic Roads** are regulated under Section 10. "Administration of the Scenic Road Act" of Article VI. "Roads, Highways, Bridges, Rubbish Disposal, Water and Sewer" of the TOWN OF FRAMINGHAM BY-LAWS (*see APPENDIX 11 of these Zoning By-Laws*) and the Scenic Road Act, M.G.L. Ch. 40, Sec. 15C, administered by the Framingham Planning Board. These regulations provide for public review of proposed projects which involve the cutting or removal of trees, or the tearing down or destruction of stone walls within the boundaries of roads designated as scenic road by the Town.

In addition to the above laws and regulations, other regulations and standards such as historic district controls, utility permit requirements, and the Town of Framingham Department of Public Works' "Construction Standards" may apply to specific cases.

APPENDIX 2 - NUISANCE BY-LAW

Town of Framingham By-Laws, Article V. "Health and Safety"

Section 22 Nuisance Bylaw

[Adopted: Article 24, Annual Town Meeting, 2002]
Approved by the Attorney General on 7/1/02

22.1 AUTHORITY AND PURPOSE

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by Massachusetts General Laws, Chapter 139, Sections 1-3A, this Bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard of blight, or adversely affect property values.

22.2 DEFINITIONS

22.2.1 Blight

Any condition that seriously impairs the value, condition strength, durability or appearance of real property, including real property owned or occupied by an Interested Party as defined in section 4.2.5 below.

22.2.2 Building

A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for persons, animals, or property. See "structure" below.

22.2.3 Dilapidated

A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to:

Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors;

Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering.

Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration is unsuitable for the purpose for which designed.

22.2.4 Hazard

A condition likely to expose persons to injury, or property to damage, loss or destruction.

22.2.5 Interested Parties

In connection with the notification requirements of this bylaw Interested Parties are the Building Commissioner; owner(s) and/or occupants of property which is the subject of a hearing; owners and/or occupants of property directly opposite the subject property on any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of property abutting, and that is within 300 feet of, the property line of the subjected property. Other persons who own or occupy property and who demonstrate to the satisfaction of the Building Commissioner that they are affected by the condition of the property or building that is the subject of a hearing may be regarded as Interested Parties by the Building Commissioner.

22.2.6 Nuisance

Any substantial interference with the common interest of the general public in the maintaining decent, safe, and sanitary structures that are not dilapidated, and neighborhoods, when such interference results from the hazardous or blighted condition of private property, land or buildings. The fact that a particular structure or use may be permitted under the zoning bylaw does not create an exemption from the application of this bylaw. The term includes but is not limited to:

(a) burned structures not otherwise lawfully habitable or usable,

(b) dilapidated real or personal property,

(c) dangerous or unsafe structures or personal property,

(d) overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values,

(e) dead, decayed, diseased or hazardous trees, debris or trash,

(f) signs as described in section 1.19.2 of the sign bylaw,

(g) personal property that is exposed to the elements without protection against deterioration, rust or dilapidation,

(h) vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil,

(i) in any Residence District, keeping of more than one commercial vehicle, or of a tractor that exceeds a gross vehicle weight of three-quarters (3/4) of a ton for hauling a van or trailer as defined by the Registry of Motor Vehicles.

(j) personal property that has been placed for the collection as rubbish or refuse in violation of Article VI, section 4.1 of the Town Bylaws other than as approved by the Director of Public Works, or left in public view for more than seven days.

22.2.7 Occupant
A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

22.2.8 Owner
Every person who alone or jointly or severally with others (a) has legal title to any building, structure or property to this Bylaw; or (b) has care, charge, or control of any such building structure or property in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) lessee under a written letter agreement; or (d) mortgage in possession; or (e) agent, trustee or other person appointed by the courts.

22.2.9 Responsible Party
The owner or occupant (in the case of real property) of property that is the subject of proceedings under this by-law. The singular use of the term includes the plural when the context so indicates.

22.2.10 Structure
A combination of materials, whether wholly or partially level with, above or below the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

22.3 ADMINISTRATION

22.3.1 Enforcement
This Bylaw shall be enforced by the Building Commissioner.

If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the Occupant of the premises and shall immediately cease. In making such inspection, the Building Commissioner shall have such right of access to premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.

If, after such notice and order, such violation continued, or if any Owner of Occupant fails to obey any lawful order of the Building Commissioner with respect to any violation of the provisions of the Bylaw, the Building Commissioner may make complaint to the Superior Court or any court of competent jurisdiction an any injunction or order restraining any further use of the premises and the continuation of the violation and shall take such other action as is necessary to enforce the provisions of this Bylaw.

In addition to the foregoing remedy, whoever violates any provision of this Bylaw or fails to obey any lawful order issued by the Building Commissioner in enforcing this Bylaw shall be liable to a fine of not more than three hundred ($300.00) for each violation. Each violation of this Bylaw shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.

The Building Commissioner may require disclosure to him/her of the identity of the person bringing a complaint of nuisance. The Building Commissioner may require that such complaint be made under oath or subject to the penalties of perjury. If the Building Commissioner determines that a reported condition may warrant immediate action, constitute a substantial violation of this Bylaw, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Bylaw without requiring the disclosure of the identity of the complainant.

If the Building Commissioner determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this Bylaw, he shall refer the matter to the Director of Public Health of the town appropriate state or town officials for action.

During his investigation of the matter, the Building Commissioner may consult, but is not required to do so, with any Interested Party in an attempt to obtain voluntary compliance with this Bylaw without the need to issue a notice of violation.

22.3.2 Notice to Complainant
In any matter in which a complaint has been made by a person other than the Building Commissioner, the Building Commissioner shall promptly notify the complainant in advance of all conferences or proceedings concerning resolution of the nuisance complaint or of any enforcement action and the complainant shall be allowed to be present and to be heard.

22.3.3 Removal of Nuisance by Selectmen
If the Responsible Party fails to remedy the nuisance upon notice from the Building Commissioner to do so, the Board of Selectmen may cause the nuisance to be removed as provided in General Laws c. 139.

22.3.4 Review by the Town Manager
Any Interested Party who has filed a written complaint of a nuisance with the Building Commissioner upon which complaint the Building Commissioner has determined that the condition is not a nuisance, or has taken other action that the Interested Party claims is inadequate shall have a right to a review of the matter by the Town Manager. At the request of such an Interested Party, the Town Manager shall confer with the Building Commissioner and shall recommend appropriate action to the Building Commissioner and to the Board of Selectmen.

22.3.5 Reports by Building Commissioner
The Building Commissioner shall file with the Town Manager each month a report that shall include all complaints of nuisance made to him during the prior month; all proceedings begun by him under this Bylaw; all pending complaints and all investigations and enforcement actions taken by him or referred to the Commissioner of Public Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.

APPENDIX 3 – SIGN BY-LAW

Town of Framingham By-Laws, Article VII. "Signs and Districts"
Section 1 Sign By-Law

[Adopted: Article 16 Annual Town Meeting of April 11, 1996]
Approved by Attorney General

[Effective: September 24, 1996]
[Revised: May 12, 2010]

Revised Sign By-Law

*** Please contact the Framingham Sign Officer for the Sign By-Law***

APPENDIX 4 -DISABLED PARKING

Town of Framingham By-Laws, Article V. "Health and Safety"
Section 9 Disabled Parking

[Adopted: Article 26, Special Town Meeting of December 9, 1997]

[Effective: April 2, 1998]

9.1 Designated parking spaces for vehicles owned and operated by disabled veterans or by disabled persons and bearing the distinctive number plates or placard authorized by Massachusetts General Law Chapter 90, Section 2, shall be provided in public and private off street parking areas.

9.1.1 Any person or body who has lawful control of a public or private way, or of improved or enclosed property used as off street parking areas for businesses, shopping, malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, or for any other place where the public has the right of access as invitees or licensees, shall reserve parking spaces in said off street parking areas for any vehicle owned and/or operated by a disabled veteran, or disabled person whose vehicle bears the distinguishing license plate or placard authorized by Chapter 90, Section 2 according to the following formula:

TOTAL SPACES	REQUIRED HANDICAPPED SPACES
1 - 25	1 Space
26 - 50	2 Spaces
51 - 75	3 Spaces
76 - 100	4 Spaces
101 - 150	5 Spaces
151 - 200	6 Spaces
201 - 300	7 Spaces
301 - 400	8 Spaces
401 - 500	9 Spaces
501 - 1,000	2% of Total Spaces
1,001 and over	20 plus 1 for each 100 over 1,000

Outpatient Medical Facilities:	10% of Total Spaces
Facilities specializing in the treatment or services for people with mobility impairments	20% of Total Spaces

One in eight designated handicapped spaces but not less than one shall be van accessible.

Multiple dwellings, including residential condominiums, are subject to all provisions of the Architectural Access Board regulations. (521 CMR).

9.1.2 Each parking space designated as reserved under the provisions of subsection 9.1.1. shall be identified by the use of an above grade sign located at the head of each space and no more than ten feet away. Signs shall show the "International Symbol of Access" and the words "Handicapped Parking: Special Plate Required, Unauthorized Vehicles May Be Removed At Owners Expense" in white on a blue background. The bottom of the sign shall not be lower than 5 feet from the ground; the top of the sign shall not be more than 8 feet from the ground.

The spaces shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructive methods permitting sidewalk access to a handicapped person, and shall be eight feet wide plus a 5 foot aisle with diagonal striping. Two accessible spaces may share a common access aisle.

Van accessible spaces shall be 8 feet wide with an isle 8 feet wide allowing a van to operate a lift. Each such space shall have a sign designating it van accessible. Alternatively, all spaces may be universal spaces, 11 feet wide with an access aisle 5 feet wide.

9.2 No person shall leave any unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 9.1 hereof or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

Furthermore, any person or body who has lawful control of a public or private way or of improved or enclosed property used as off street parking for authorized vehicles bearing HP plates or placards shall be responsible for exercising reasonable care to see that the spaces and access ramps be kept clear of debris, refuse and shopping carts so the spaces are accessible and usable.

9.3 The penalty for violation of this Bylaw shall be as follows:

Violations of Section 9.1.1 and 9.1.2 shall be 10 dollars per day per violation after the person or body having lawful control of the ways or property has been given written notice and not less than 30 days to comply.

Violations of Section 9.2 shall be 50 dollars for each offense, and the vehicle may be removed according to the provisions of General Law Chapter 266, Section 120D.

9.4 Violations of Section 9.1.1 and 9.1.2 shall be enforced by the Building Commissioner.
Violations of Section 9.2 shall be enforced by the Police Department.

9.5 Appeals may be made to the Board of Selectmen or its designees and shall be granted in accordance with the Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) regulations.

'**NOTE**: Provisions for handicapped parking in the Town of Framingham are also governed by the standards of the “Americans with Disabilities Act” and the Massachusetts Architectural Access Board. Additional information regarding these standards may be obtained from the Framingham Building Commissioner.

APPENDIX 5 - SIGN AND ZONING BY-LAW VIOLATIONS

Town of Framingham By-Laws, Article VII. "Signs and Districts"
Section 3 Sign and Zoning By-Law Violations

[Adopted: Article 40, 1980 Annual Town Meeting, recodified]

3.1 The Building Commissioner, upon taking cognizance of a violation of the Zoning or Sign Bylaws, may issue to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof, not later than twenty-one (21) days after the date of such notice. Such notice shall contain the name and address, if known, of the offender, the specific offense charged and the time and place for his required appearance.

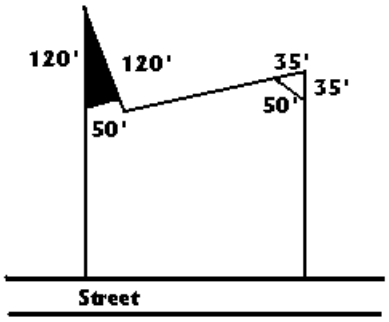
3.2 Any person so notified may appear and confess the offense charged, either personally or through an authorized agent or by mailing to the clerk of said district court such notice with such specific sum of money as the Town shall fix as penalty for violation of the Bylaw. The payment to the Clerk shall operate as a final disposition of the case and said proceedings shall be deemed to be non-criminal. If any person so notified to appear and also to avail himself of the procedure established pursuant to this Bylaw, he may, within twenty-one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk or assistant clerk. If the judge, clerk or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the sum of money fixed as penalty by the Bylaw, or such lesser amount as the judge, clerk or assistant clerk shall order.

3.3 If such judge, clerk or assistant clerk shall, after hearing, find that the violation alleged did not occur or was not committed by the person so notified to appear, that finding shall operate as a final disposition of the case. Proceedings held pursuant to this subsection shall be deemed to be non-criminal.

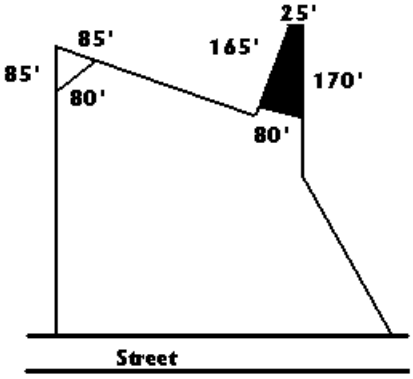
3.4 If any person so notified to appear before the clerk of the district court fails to pay the fine provided by the Bylaw within the time specified, or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as penalty after a hearing and finding as provided in the preceding subsection, the clerk shall notify the Building Commissioner, who shall determine whether to apply for the issuance of a criminal complaint for the violation of the appropriate Bylaw.

APPENDIX 6 – ILLUSTRATION OF DIMENSIONAL REGULATIONS

Section IV.g.3.(c) Irregularly-Shaped Lots



Where Minimum Lot Area requirement is less than 20,000 s.f., shaded area would be excluded from computation of Minimum lot area, as 120'+120' is more than 150'.



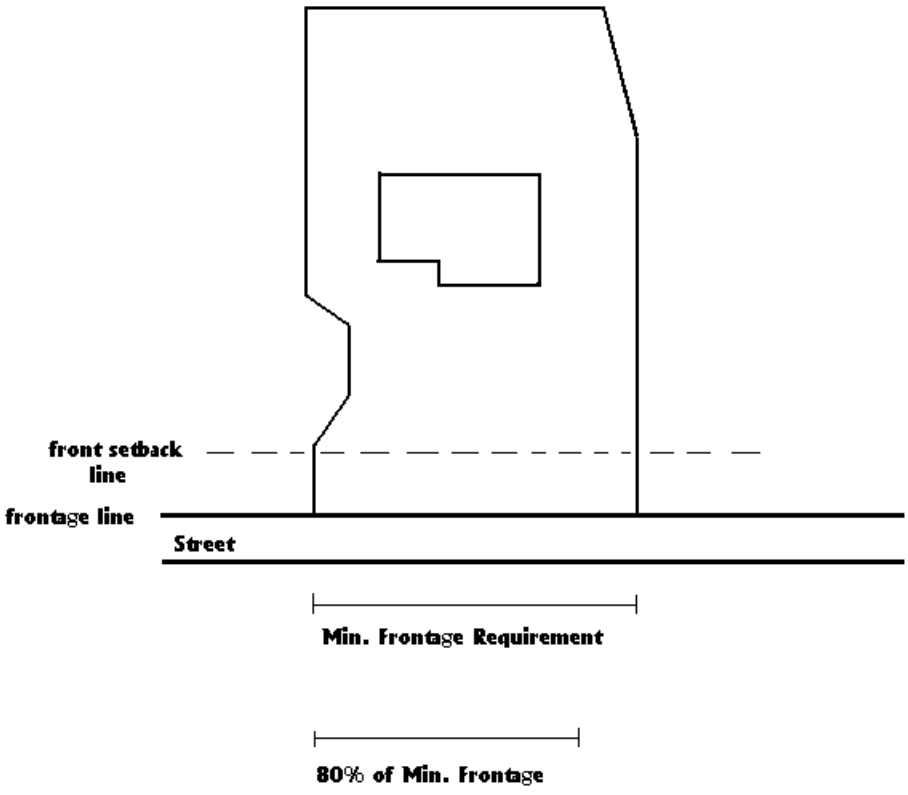
Where Minimum Lot Area requirement is 20,000 s.f. or more, shaded area would be excluded from computation of Minimum Lot Area, as 165' + 25' + 170' is more than 240'.

Section IV.G.4.(a) Lot Frontage Requirement

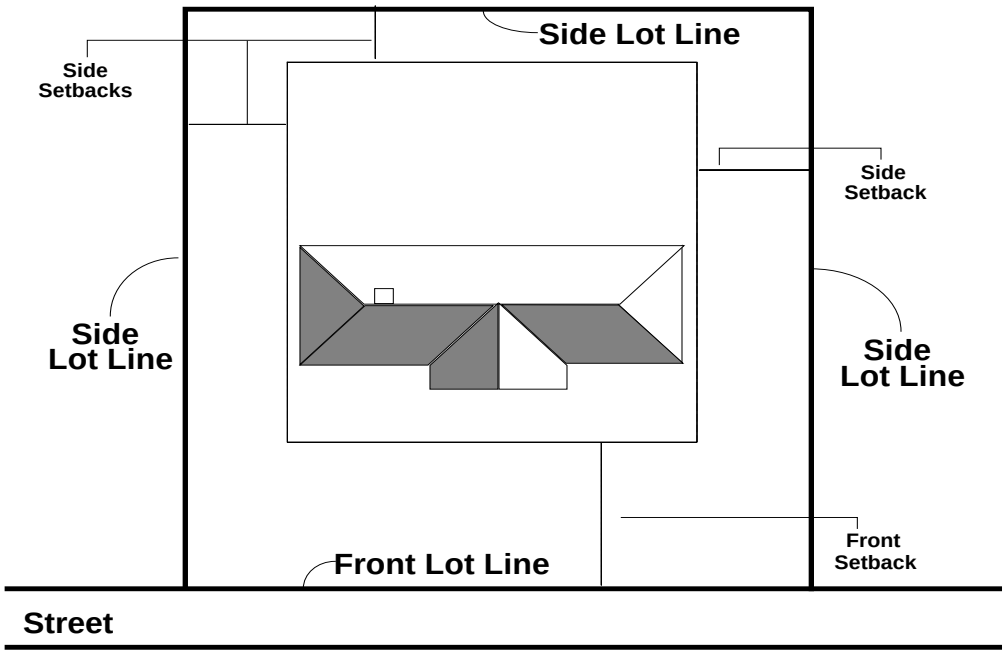
Minimum Lot Frontage as specified in Section IV.G.2. required at the frontage line

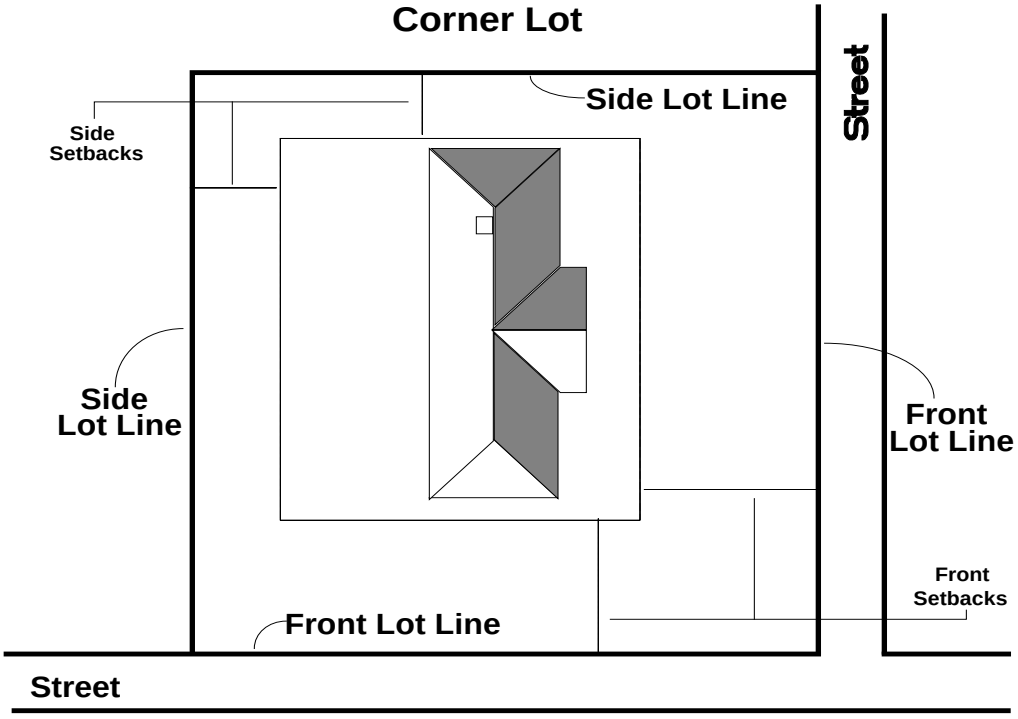
and
Section IV.G.4.(b) Lot Width Requirement

Lot width not less than 80% of required Minimum Lot Frontage
from frontage through any point of building
and
Minimum lot width shall be equal to the Minimum Lot Frontage requirement
from the lot frontage to the front setback line
and again where any line passes through a principal building on a lot.

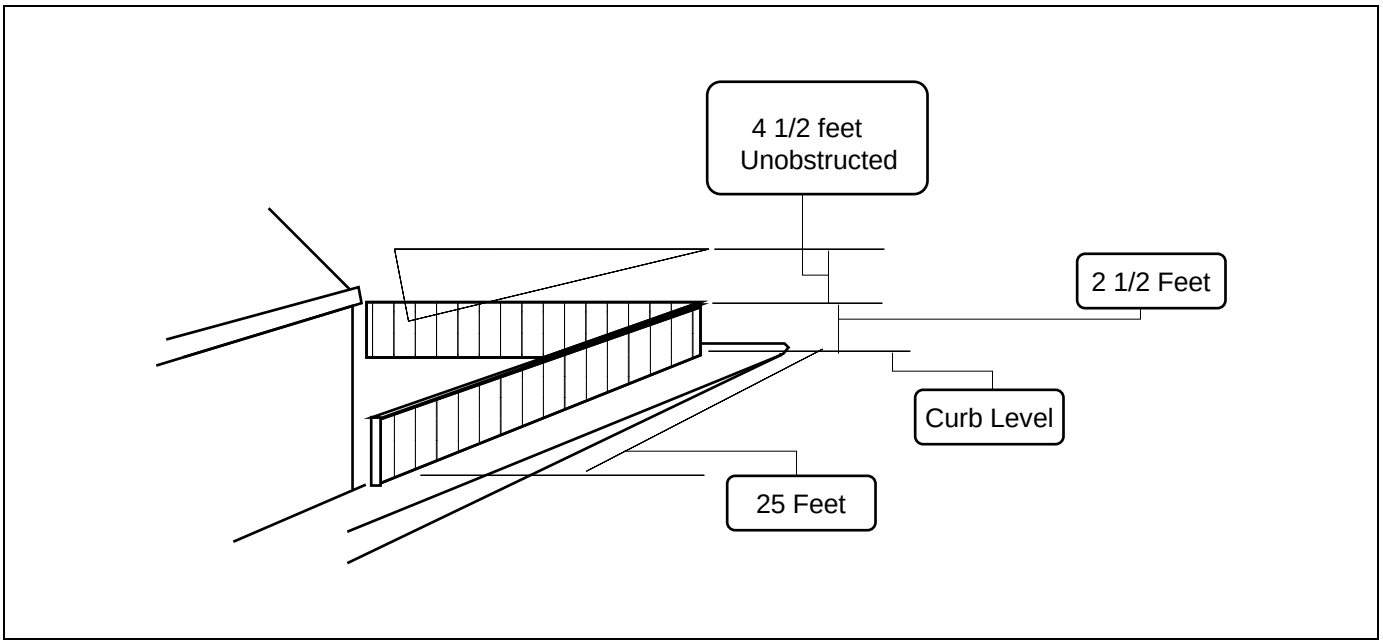


Section IV.G.5.(a)
Front and Side Setbacks





Section IV.G.5.(c)
Corner Clearance



APPENDIX 7 - LEVEL OF SERVICE (LOS)

In Section IV.I. of the Zoning By-Law (Site Plan Review) the standard set forth for traffic impacts is based on the concept of "*level of service*" ("LOS"). Level of service is a qualitative measure of the operating condition of a transportation facility, such as an intersection or highway link, at specific traffic volumes. It is divided into six classes described as follows:

LOS	OPERATING CONDITIONS
A	Free flow, low volume, high operating speed, high maneuverability.
B	Stable flow, moderate volume; speed somewhat restricted by traffic conditions, high maneuverability.
C	Stable flow, high volume; speed and maneuverability determined by traffic conditions.
D	Unstable flow, high volumes, tolerable but fluctuating operating speed and maneuverability.
E	Unstable flow, high volumes approaching roadway capacity, limited speed, intermittent vehicle queuing.
F	Forced flow, volumes lower than capacity due to very low speeds. Heavy queuing of vehicles, frequent stoppages.

[**Source**: "Quick-Response Urban Travel Estimation Techniques and Transferable Parameters: User's Guide", National Cooperative Highway Research Program Report 187, Transportation Research Board, National Research Council, 1978]

LOS is determined differently for highways, signalized intersections, and unsignalized intersections. Capacity and level of service of signalized intersections are determined using a procedure known as Critical Movement Analysis. In this method, LOS is determined by vehicle delay and "volume/capacity (V/C) ratio", which is the sum of "critical volumes" for the intersection divided by the theoretical capacity of the intersection. The following table summarizes the delay and V/C values for signalized intersections:

Level of Service	Typical V/C Ratio	Delay Range (sec/vehicle)
A	.00-0.60	0.0-16.0
B	.61-0.70	6.1-22.0
C	.71-0.80	22.1-28.0
D	0.81-0.90	28.1-35.0
E	0.91-1.00	35.1-40.0
F	varies	40.1 or greater

[**Source**: "Interim Materials on Highway Capacity", Transportation Research Circular No. 212, Transportation Research Board, National Academy of Sciences, January 1980, pp. 5 - 12.]

APPENDIX 8 - FRAMINGHAM WETLANDS PROTECTION BY-LAW

Town of Framingham By-Laws, Article V. "Health and Safety"
Section 18 Framingham Wetlands Protection Bylaw

[Adopted: Article 11, Special Town Meeting of May 20, 1992]
[Amended: Article 13, Annual Town Meeting of April 19, 1995]
[Amended: Article 9, Annual town Meeting of April 25, 2000]
[Amended: Article 5, Special Town Meeting of January 23, 2001]
[Amended: Article 5, Annual Town Meeting of April 26, 2005]

Preamble

NO NET LOSS OF WETLANDS POLICY: There shall be no net loss of wetlands or wetland resource areas in Framingham. It is presumed that non-water dependent projects can always be designed to avoid loss of wetland areas. Projects having no feasible alternative to alteration impacts must be minimized and mitigated.

18.1 Purpose

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas, and provide Open Space for passive recreation and education in the Town of Framingham by prior review and control of the activities deemed by the Conservation Commission likely to have a significant effect upon values and functions including, but not limited to, the following: public or private water supply, groundwater, storm damage prevention, flood control, erosion and sedimentation control, water pollution prevention, fisheries, wildlife, wildlife habitat, passive recreation, aesthetics, agriculture, and aquaculture (collectively, the "interests and values protected by this By-law").

18.2 Jurisdiction

Except as permitted by the Conservation Commission or as provided by this by-law, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas, any: freshwater wetland, vernal pool, marsh, wet meadow, bog, swamp, bank, beach, flat, lake, river, pond, stream, any land under said waters, land subject to flooding; Riverfront Area, or land subject to inundation by surface water during the 100 year event. Said resource areas shall be protected whether or not they border surface waters. The Commission may establish a no work/no alteration zone as appropriate to each application.

Except as otherwise provided in the bylaw, any activity to be undertaken within the Buffer Zone as defined in Section 18.9 requires the filing of an application.

18.3 Exceptions

No provision of this bylaw shall apply to: (1) activities lawfully completed prior to the effective date of this bylaw, or (2) activities subject to a negative Determination of Applicability or an Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L.Ch. 131, Section 40, prior to July 1, 1992.

The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but, not substantially enlarging or changing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunications services, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by this Commission.

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or subdivision of, provided that advance written notice has been given to the Commission, prior to the commencement of work or within twenty four (24) hours after commencement, provided that the work is performed only for the time and place agreed to by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 14 days of commencement of an emergency project a permit application (Abbreviated Notice of Intent or Notice of Intent) shall be filed with the Conservation Commission for review under the provisions of this bylaw. Failure to meet these and other requirements of the Conservation Commission may, after appropriate process as provided by this bylaw and applicable regulations, result in revocation or modification of the emergency project approval and require restoration and application of mitigating measures.

The permit and application required by this bylaw shall not apply to certain "minor activities" (as defined below) in the Buffer Zone or Riverfront Area, provided that the activity is not within any other resource area:

A. Unpaved and pervious pedestrian walkways for private use.

B. Fencing that does not bar wildlife movement; stone walls; stakes of cordwood.

C. Vista pruning of non-landscaped areas (pruning of landscaped area is exempt), provided that the activity is located more than fifty (50) feet from the mean annual high water line within a Riverfront Area or from Bordering Vegetated Wetland, whichever is further.

D. Planting of native trees, shrubs, or groundcover, but no turf lawns.

E. Conversion of lawn to uses accessory to existing single family houses (e.g. decks, sheds and gazebos) if the house existed on August 7, 1996, and provided that the activity is located more than fifty (50) feet from the mean annual high water line within a Riverfront Area or from a Bordering Vegetated Wetland, whichever is further. Erosion and sedimentation controls are used during construction.

F. Conversion of impervious surface to vegetated surfaces provided that erosion and sedimentation controls are used during construction.

G. Activities that are temporary, have negligible impacts and are necessary for planning and design purposes (e.g. installation of monitoring wells, exploratory borings, sediment sampling, and surveying).

Activities not meeting the requirements for a "minor activity" as listed above in this section will continue to require a filing before the Commission and may be allowed through a Determination of Applicability or an Order of Conditions.

In the event that any of the above-listed activities are proposed within other wetland resource areas, as defined under this bylaw, such activities are NOT exempt from the permit and application requirements of the bylaw.

Other than as stated in this section the exceptions provided in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, will not apply.

18.4 Application for Permits and Requests for Determination

Permits: Written application shall be filed with the Conservation Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The application shall include such information and plans as required by the regulations and as are deemed necessary by the Conservation Commission to describe the proposed activities and their effects on the environment. No activities shall commence without receiving a permit issued pursuant to this bylaw.

Determinations: Any person desiring to know whether or not a proposed activity and/or an area is subject to this bylaw may submit a Request for Determination to the Conservation Commission on the appropriate form. The request shall contain all necessary information, plans, data calculations, etc., as specified by the regulations.

The Conservation Commission, as it deems appropriate, may accept as the application and plans under this bylaw the Notice of Intent/Request for Determination and plans filed under the Wetlands Protection Act, M.G.L. Ch.131, §40.

At the time of the permit application, Request for Determination, or application for Certificate of Compliance, the Applicant shall pay a filing fee according to the schedule in the associated *Framingham Wetlands Bylaw Regulations.*

This fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, and Regulations, 310 CMR 10.00. Town, county, state, and federal projects are exempt from the filing fee. The fee for an application for a modification of a permit will be the fee as calculated in the *Framingham Wetlands Bylaw Regulations*.

All fees collected pursuant to this Bylaw shall be deposited into the Conservation Commission Revolving Fund, established pursuant to M.G.L. Ch. 44, Sec. 53E ½.

Applications filed under this bylaw are to be delivered via Certified Mail, Return Receipt or hand-delivered to the Commission and shall be accompanied by the filing fee prescribed in 310 CMR 10.03(7) and in accordance with Chapter 287, Act of 1989, Section 54 Revised July 26, 1989.

18.5 Notice of Hearings

The applicant filing a request for determination or application for a permit under the provisions of this bylaw shall give written notice by Certified Mail, Return Receipt Request or by hand-delivery to all abutters within one hundred (100) feet from the property lines of the property in which the project is to occur according to the current Assessors records five (5) days in advance of the scheduled hearing in accordance with provisions of this bylaw and its regulations. The Conservation Commission is responsible for notifying the applicant and owner, if not the same, of the time and place of the scheduled hearing. Also, the Conservation Commission is responsible, for placing a notification of the subject hearing in a local newspaper at least five (5) days prior to the hearing. The Conservation Commission shall conduct a public hearing within

twenty one (21) days of the receipt of a completed application for permit or request for determination unless unusual circumstances prevent this scheduling.

In this event the hearing will be scheduled at the next regularly scheduled Conservation Commission meeting having time available.

The Conservation Commission may, at its option, combine the hearing under this bylaw and the hearing conducted under the Wetlands Protection Act, M.G.L. Ch.131, Sec. 40.

The Conservation Commission shall have the authority to continue the hearing to a specific date, agreeable to the applicant, announced at the hearing without further notification, for reasons stated at the hearing. Those reasons may include, but are not limited to, requests from other boards, officials, or attendees. In the event that the applicant objects to a continuance, the hearing will be closed and the Conservation Commission will take action on available information.

18.6 Coordination with other Boards and Departments

The Conservation Commission will notify appropriate Boards and Departments not less than ten (10) days prior to the hearing in order to allow their review of the submittal on file located in the Administrators office. Written comments from these Boards and Departments should be submitted to the Conservation Administrator at least three (3) days before the hearing. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at the hearing.

18.7 Permits, Determinations, and Conditions

If the Conservation Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Conservation Commission, within twenty one (21) days of the close of the hearing, unless unusual circumstances prevent it, shall issue or deny a permit for the activities requested. Determinations of Applicability will be issued within 21 days of receipt of the request. If the Conservation Commission issues a permit, conditions shall be imposed which are deemed necessary to protect the "interests and values", and all activities shall be performed in accordance with those conditions. The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to avoid or prevent unacceptable significant or cumulative effects to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values.

A permit shall expire three years from the date of issuance. The Conservation Commission may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Conservation Commission. Any permit may be renewed once for an additional one year period, provided that a request for renewal is received in writing by the Conservation Commission thirty days prior to expiration. The Conservation Commission, for good cause, may revoke or modify a permit issued under this bylaw after notice to the holder of the permit, notice to the public, abutters, and town boards pursuant to the preceding section 5, and a public hearing.

The Conservation Commission in an appropriate case may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Massachusetts Wetlands Protection Act, M.G.L. Ch.131, Sec. 40.

The Commission may deny the request for an extension and require the filing of a new permit request under the following circumstances: no work has begun on the project, except where such failure is due to unavoidable delays, such as appeals, or obtaining other necessary permits; new information has become available and indicates that the Order is not adequate to protect the interests covered by this bylaw.

No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected thereby be registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

18.8 Regulations

After public notice and public hearing the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

18.9 Definitions

Except as specifically provided by these Regulations and the bylaw, terms used in the regulations and the bylaw have the meanings defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, ("The Act") and in Regulations currently codified at 310 CMR 10.00, issued pursuant to the Act by the Department of Environmental Protection, as amended November 10, 1989.

The following definitions shall apply in the interpretation and implementation of this bylaw.

Abutter means the same as the owner of land abutting the activity.

Act means the Wetlands Protection Act, M.G.L. c. 131, Sec. 40.

Activity means any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of run-off characteristics; the intercepting or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land.

Aggrieved means the same as persons aggrieved.

Agriculture

A. Land in agricultural use means land presently and primarily used in the raising of animals including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals.

   Additionally, land in agricultural use means land presently and primarily used in the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs; or land presently and primarily used in raising forest products under a planned program to improve the quantity and quality of a continuous crop; or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products.

   Land in agricultural use may lie fallow for a period of time if it has been used for agriculture at least three (3) of the five (5) immediately preceding years.

B. Normal maintenance or improvement of land in agricultural use means the following activities:
   1. All tilling and harvesting practices customarily employed to enhance existing growing conditions;
   2. The pasturing of animals, including the construction and maintenance of such fences as may be required;
   3. The use of fertilizers, pesticides, herbicides, and other maintenance of such fences as may be required;
   4. The constructing, grading or restoring of field ditches, subsurface drains, grass waterways, vents, access roads, farm ponds and similar projects to improve drainage, prevent erosion, provide more effective uses of rainfall and improve equipment operation and efficiency, all in order to improve conditions for the growing of existing crops or raising of animals;
   5. The cultivation of cranberries, including the following practices:
      a. sanding operations using existing sand pits;
      b. cleaning of cross ditches, canals and natural waterways;
      c. repair and replacement but not enlargement of water control structures, including flumes, pumps, dikes, and piping above and below ground;
      d. repair, replacement and re-grading of existing cranberry bogs, and
      e. repair and cleaning of reservoirs, dams and water storage systems within the limits of existing water rights.

      All maintenance and improvement activities shall be undertaken in such a manner as to prevent erosion and siltation of adjacent water bodies and wetlands, as specified by the U.S.D.A. Soil Conservation Service "Guidelines for Soil and Water Conservation".
   6. The cutting and removal of trees for the purpose of selling said trees or any products derived there from, when carried out in the following manner:
      a. every reasonable effort shall be made to avoid or minimize access through Areas Subject to Protection Under the Act;
      b. where access through Areas Subject to Protection Under the Act is necessary, every reasonable effort shall be made to gain said access without constructing new access ways including, but not

limited to, maintaining and improving (but not substantially enlarging) existing access ways, and operations shall be conducted when the soil is frozen, dry or otherwise stable;

c. where access is determined impracticable without constructing new access ways, said access ways shall be designed, constructed and maintained in accordance with U.S. Forest Service logging road standards, and shall be removed and the site returned to previously existing conditions within one (1) year;

d. all channel crossings shall be stabilized to prevent erosion, using standard U.S. Forest Service methods. When crossings involve fill or other closed or semi-closed structures which will obstruct flow, they shall be designed, constructed and maintained in accordance with U.S Forest Service standards, shall allow unobstructed passage of the existing flows for at least the 10-year storm, and shall be removed and the site returned to existing conditions within one (1) year of construction;

e. all soils which are exposed during and after work shall be stabilized to prevent said soils from eroding into open water bodies, in accordance with standard U.S. Forest Service methods;

f. all operations shall be conducted in accordance with a cutting plan approved by the Massachusetts Department of Environmental Management District Forester; and

g. a written notice describing the proposed cutting and removal of trees shall be submitted to the conservation commission not less than ten (10) days prior to the commencement of operations.

7. The selective cutting of trees by owners for their own use, when carried out in the following manner:

a. no more than 25,000 board feet or 50 cords shall be harvested;

b. after the cutting, the crown area of the remaining trees shall be evenly distributed throughout the site and shall cover no less than 50 percent of the surface area of the site;

c. the removal of the selectively cut trees shall occur only during those periods when the ground is sufficiently frozen, dry or otherwise stable to support the equipment used;

d. the cutting, removal or other destruction of trees and the understory vegetation shall not occur within twenty-five (25) feet of the bank of a water body;

e. the placement of slash, branches and limbs resulting from the cutting and removal operations shall not occur within twenty-five (25) feet of the bank of a water body; and

f. there shall occur no filling, excavation or other change in the existing topography.

<u>Alter</u> means to change the condition of any Area Subject to Protection Under the Act. Examples of alterations include, but are not limited to, the following:

A. the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;
B. the lowering of water level or water table;
C. the destruction of vegetation;
D. the changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water;

Provided that when provisions of 310 CMR 10.03(6) and 10.05(3) or 333 CMR 11.03(9) have been met, the application of herbicides in the Buffer Zone in accordance with such plans as are required by the Department of Food and Agriculture pursuant to its rights of way management regulations, 333 CMR 11.00 effective July 10, 1987, is not an alteration of any area Subject to Protection Under the Act.

<u>Aquaculture</u>

a. Land in aquacultural use means land presently and primarily used in the growing of aquatic organisms under controlled conditions, including one or more of the following uses: raising, breeding or producing a specified type of animal or vegetable life including, but not limited to, finfish such as carp, catfish, black bass, flatfishes, herring, salmon, shad, smelt, sturgeon, striped bass, sunfishes, trout, whitefish, eel, tilapia; shellfish such as shrimp, crabs, lobster, crayfish, oyster, clams, periwinkles, scallops, mussels, squid; amphibians such as frogs; reptiles such as turtles; seaweeds such as Irish moss and dulse; and edible freshwater plants.

b. Normal maintenance or improvement of land in aquacultural use means the following activities, when done in connection with the production of aquatic organisms as defined above: draining, flooding, heating/cooling, removing, filling, grading, compacting, raking, tilling, fertilizing, seeding, harvesting, filtering, rafting, culverting or applying chemicals in conformance with all state and federal laws; provided, however, that such activities are clearly intended

to improve and maintain land in aquacultural use and that best available measures are utilized to ensure that there will be no adverse effect on wetlands outside the area in aquacultural use, and further provided that removing, filling, dredging or altering of a salt marsh is not to be considered normal maintenance or improvement of land in aquacultural use.

Area Subject to Protection Under the Act means any area specified in 310 CMR 10.02(1). It is used synonymously with Resource Area, each one of which is defined in greater detail in Parts II and III of 310 CMR 10.00.

Bank (inland) is defined in Part III, 310 CMR 10.54(2).

Beach (inland): a naturally occurring inland beach means an un-vegetated bank as defined in Part III CMR 10.54(2).

Best Available Measures means the most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.

Best Practical Measures means technologies, designs, measure or engineering practices that are in general use to protect similar interests.

Bordering means touching. An area listed in 310 CMR10.02(1)(a) is bordering on a water body listed in 310 CMR 10.02(1)(a) if some portion of the area is found in the appropriate section of 310 CMR 10.02(1)(a) some portion of which is in turn touching the water body.

Bordering Vegetated Wetland is defined in Part III, 310 CMR 10.55(2).

Boundary means the boundary of an Area Subject to Protection Under the Act. A description of the boundary of each area is found in the appropriate section of 310 CMR 10.00. For inland areas, see Part III of 310 CMR 10.00.

Breeding Areas means areas used by wildlife for courtship, mating, nesting or other reproductive activity, and rearing of young.

Buffer Zone means that area of land extending one hundred twenty five (125) feet horizontally outward from the boundary of any resource area specified in this Bylaw (Para. 18.2).

Certificate of Compliance means a written documentation by the issuing authority that work or a portion thereof has been completed in accordance with an Order. It shall be made on Form 8 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.

Commissioner means the Commissioner of the Department of Environmental Protection, pursuant to St. 1989, c. 240, §101.

Conditions means those requirements set forth in a written Order issued by a Conservation Commission for the purpose of permitting, regulating or prohibiting any activity that removes, fills, dredges or alters and Area Subject to Protection Under this Bylaw.

Conservation Commission means that body comprised of members lawfully appointed pursuant to M.G.L. c. 40, §8C. For the purposes of the Act and 310 CMR 10.00, it shall also mean a mayor or board of selectmen, where no conservation commission has been established under said M.G.L. c. 40, §8C.

Creek means the same as a stream, as defined in this section.

Date of Issuance means the date an Order is mailed, as evidenced by a postmark, or the date it is hand-delivered.

Date of Receipt means the date of delivery to an office, home or usual place of business by mail or hand-delivery.

Department means the Department of Environmental Protection, and shall include the Commissioner and any other person employed by said Department, pursuant to St. 1989, c.240, §101.

Determination

A. Determination of Applicability means a written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of this Bylaw. It shall be made on Form 2 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.

B. A Determination of Significance means a written finding by a Conservation Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more interests identified in this Bylaw. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99., modified to reference this Bylaw or on a form designed under this Bylaw.

C. Notification of Non-Significance means a written finding by a conservation commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any interests of this Bylaw. It shall be made on Form 6 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.

Dredge means to deepen, widen or excavate, either temporarily or permanently.

Extension Permit means a written extension of time within which the authorized work shall be completed. It shall be made on Form 7 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.

Fill means to deposit any material so as to raise an elevation, either temporarily or permanently.

Final Order means the Order issued by the Commissioner after an adjudicatory hearing or, if no request for hearing has been filed, the Superseding Order or, if no request for a Superseding Order has been filed, the Order of Conditions.

Flood Control means the prevention or reduction of flooding and flood damage.

Freshwater Wetlands shall mean wet meadows, marshes, swamps, bogs, areas where ground water, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

General Performance Standards means those requirements established by Regulations promulgated under this Bylaw for activities in or affecting each of the Areas Subject to Protection Under this Bylaw.

Ground Water Supply means water below the earth's surface in the zone of saturation.

Important Wildlife Habitat Functions mean important food, shelter, migratory or overwintering area, or breeding areas for wildlife.

Interests Identified in this Bylaw means public or private water supply, ground water supply, flood control, storm damage prevention, prevention of pollution, erosion control and sedimentation control, protection of wildlife, protection of wildlife habitat, passive recreation, aesthetics, agriculture, and aquaculture, protection of fisheries, and protection of wildlife habitat.

Issuing Authority means the Framingham Conservation Commission.

Lake means an open body of fresh water with a surface area of ten (10) acres or more, and shall include great ponds.

Land subject to flooding is defined in Part III, 310 CMR 10.57(2).

Land Under Water Bodies and Waterways means the bottom of, or land under, the surface of a creek, river, stream, pond, or lake. Land under inland water bodies is further defined in Part III 310 CMR 10.562).

Lot means an area of land in one ownership, with definite borders.

Majority means more than half of the members of the Conservation Commission then in office.

Marsh is defined in M.G.L. c.131, §40, ¶10.

Meadow (or wet meadow) is defined in M.G.L. c.131, §40, ¶9.

MEPA means the Massachusetts Environmental Policy Act, M.G.L. c.30, §§6-62H, and the regulations promulgated pursuant thereto, 301 CMR 11.00 et seq.

Migratory Areas means those areas used by wildlife moving from one habitat to another, whether seasonally or otherwise.

Notice of Intent means the written notice filed by any person intending to remove, fill, dredge or alter an area subject to Protection Under this Bylaw. It shall be made on Form 3 or 4 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw

Order means an Order of Conditions or Amended Order of Conditions.

Order of Conditions means the document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5, 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw

Owner of Land Abutting the Activity means the owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across the street, way, creek, river, stream, brook or canal.

Party to any proceeding before the Commission means the applicant, and pursuant to 310 CMR 10.05(7)(a) may include the owner of the site, any abutter, any person aggrieved, any ten (10) residents of the city or town where the land is located and any ten (10) persons pursuant to M.G.L. c.30A, §10A.

Person Aggrieved means any person who, because of an act or failure to act by the issuing authority, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of interests identified in the Bylaw.

Plans mean such data, maps, engineering drawings, calculations, specification, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site and/or the work, to determine the applicability of the Bylaw or to determine the impact of the proposed work upon the interests identified in the Bylaw.

Pond (inland) means any open body of fresh water, either naturally occurring or man-made by impoundment, with surface area observed or recorded within the last ten (10) years of at least 10,000 square feet, and which is never without standing

water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four (4) or more months during which the average rainfall for each month is 50 percent or less of the ten (10) year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention basins.

Prevention of Pollution means the prevention or reduction of contamination of surface or ground water.

Private Water Supply means any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

Protection of Fisheries means protection of the capacity of an Area Subject to Protection under this Bylaw.

A. To prevent or reduce contamination or damage to fish: and

B. To serve as their habitat and nutrient source. Fish includes all species of fresh fish.

Protection of Land Containing Shellfish means protection of the capacity of an Area Subject to Protection Under the Act:

A. To prevent or reduce contamination or damage to shellfish; and

B. To serve as their habitat and nutrient source.

Public Water Supply means any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c.111, §160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

Rare Species means those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.

Remove means to take away any type of material, thereby changing an elevation, either temporarily, or permanently.

Request for Determination of Applicability means a written request made by any person to a conservation commission or the Department for a determination as to whether a site or work thereon is subject to the Act. It shall be submitted on Form 1 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.

Resource Area means any of the areas specified in this Bylaw. It is used synonymously with Area Subject to Protection Under this Bylaw, each one of which is enumerated in Para. 18.2, Jurisdiction.

River means a natural flowing body of water that empties to any ocean, lake or other river and which flows throughout the year.

Riverfront Area is the area of land between a river's mean annual high water line and a parallel line measured horizontally for 200 feet on both sides of the River. The Riverfront area may include or overlap other resource areas or their buffer zones.

Shelter means protection from the elements or predators.

Significant means plays a role. A resource area is significant to an interest identified in the Act when it plays a role in the provision or protection, as appropriate, of that interest.

State-listed Species means the same as rare species, as defined in this section.

Storm Damage Prevention means the prevention of damage caused by water from storms including, but not limited to, erosion and sedimentation, damage to vegetation, property or buildings, or damage caused by flooding, water-borne debris or water-borne ice.

Stream means a body of water, including brooks and creeks, which move in a definite channel in the ground due to hydraulic gradient, and which flows within, into or out of an Area Subject to Protection Under the Act. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion upgradient of all bogs, swamps, wet meadows and marshes.

Superseding Order means a document issued by the Department containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.

Swamp is defined in M.G.L. c.131, §40, ¶8.

Vernal Pool Habitat means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months, and which are free of adult fish populations, as well as the area within 125 feet of the mean annual boundaries of such depressions. These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma macultum*), and are important habitat for other wildlife species.

Water-dependent uses means those uses and facilities which require direct access to, or location in inland waters and which therefore cannot be located away from said waters, including but not limited to: marinas, public recreational uses,

navigational and commercial fishing and boating facilities, water-based recreational uses, navigation aids, basins, channels, industrial uses dependent on waterborne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an upland site, crossing over or under water bodies or waterways (but limited to railroad and public roadway bridges, tunnels, culverts, as well as railroad tracks and public roadways connecting thereto which are generally perpendicular to the water body or waterway), and any other uses and facilities as may further hereafter be defined as water-dependent in 310 CMR 9.00.

Wildlife means all mammals, birds, reptiles and amphibians and, for the purposes of 310 CMR 10.37 and 10.59, all vertebrate and invertebrate animal species which are officially listed by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00 as endangered, threatened, or of special concern.

Wildlife habitat is defined in paragraph 13 of the Act.

Work means the same as activity.

18.10 Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observation of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or other negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission;

B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Framingham whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

18.11 Enforcement

The Conservation Commission, its agents, officers, and employees shall, after proper notification to the owner, have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems necessary.

The Conservation Commission shall have the authority to enforce this bylaw, its regulation, and permits issued there under by violation notices, administrative order, and civil and criminal court actions. Upon request of the Conservation Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law.

Municipal board and officers, including any police officer or other officers having police powers, shall have the authority to assist the Conservation Commission in enforcement.

Any person who violates any provision of this bylaw, or permits issued there under, shall be punished by a fine of not more than $300.00 each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, or permit violated shall constitute a separate offense. As the alternative to criminal prosecution, the Conservation Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.40, §21D.

18.12 Burden of Proof

The applicant for a permit shall have the burden of proof by a preponderance of credible evidence that the work proposed in the application will not have a significant effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.

18.13 Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Ch.131, §40, and regulations there under.

18.14 Appeals

A decision of the Conservation Commission is reviewable in Superior Court in accordance with M.G.L. Ch. 249, Sec. 4.

APPENDIX 9 - DEMOLITION DELAY BY-LAW/HISTORIC DISTRICTS

Town of Framingham By-Laws, Article V. "Health and Safety"
Section 17A. Demolition Delay By-Law for Historically or Architecturally Significant Buildings in the Town of Framingham, MA.

[Article 44 voted by Town Meeting: April 10, 1991]
[Approved by Attorney General: August 21,1991]

Section 1. Intent and Purpose
This by-law is enacted for the purpose of protecting and preserving significant buildings within the Town outside the Framingham Center Common Historic District (Local) which constitute or reflect distinctive features of the architectural or historical resources of the Town, and to encourage owners of such buildings to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them, thereby promoting the public welfare and preserving the cultural heritage of the Town. To achieve these purposes the Framingham Historical Commission is authorized to advise the Building Commissioner with respect to the issuance of permits for the demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this by-law.

Section 2. Definitions
2.1 Building - Any combination of materials forming a shelter for persons, animals, or property.

2.2 Demolition - Any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

2.3 Building Commissioner - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

2.4 Commission - The Framingham Historical Commission.

2.5 Demolition Permit - The permit issued by the Building Commissioner as required by the State Building Code for a demolition, substantial demolition or removal of a building.

2.6 Historically or Architecturally Significant Building - Any building, in whole or in part, which is at least 50 years old and:

(a) which is listed on, or is a contributing building within an area listed on the National Register of Historic places, or which is the subject of a pending application for such listing, or is eligible for such listing; or

(b) is included in the Cultural Resources Inventory prepared by the Commission; or

(c) has been determined by vote of the Commission to be a significant building after a finding by the Commission that a building either:

i. is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town, or the Commonwealth, or

ii. is historically or architecturally significant (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

2.7 Preferentially Preserved - Any historically or architecturally significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than to be demolished.

Section 3. Procedure
3.1 No permit for the demolition of a building which is in whole or in part fifty (50) years or more old shall be issued other than in conformity with the provisions of this by-law, as well as in conformity with the provisions of other laws and ordinances applicable to the demolition of buildings and the issuance of permits generally.

3.2 Application contents: Every application for a demolition permit for a building at least 50 years old shall be filled with the Building Commissioner and shall contain the following information: (i) the address of the building to be demolished, (ii) the owner's name, address and telephone number, (iii) a brief description of the type of building and the condition requiring issuance of the permit; (iv) date of building as established by the Board of Assessors, deed or documentation verifying year of construction and (v) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.

3.3 Within seven (7) working days from receipt of an application for a demolition permit of a building fifty years or older, the Building Commissioner shall forward a copy to the Commission. No demolition permit shall be issued during this time.

3.4 Within ten (10) working days after receipt of the application for demolition permit by the Commission, the Commission shall make a Determination of Architectural and/or Historical Significance. Upon determination by the Commission that the building is not architecturally and/or historically significant, the Commission shall so notify the Building Commissioner in writing. Upon receipt of such notification, or after the expiration of fifteen (15) working days from the date of submission to the Commission, if the Building Commissioner has not received notification from the Commission, the Building Commissioner may issue the demolition permit.

3.5 Upon determination by the Commission that the building is historically and/or architecturally significant, the Building Commissioner and applicant shall be so notified in writing, and a demolition permit shall not be issued. The Commission shall hold a public hearing within fifteen (15) working days of the Determination of Significance to determine whether the building should be preferentially preserved. Public notice of the time, place and purpose of the hearing shall be published by the Building Department at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.

3.6 If after a public hearing the Commission determines that the significant building should not be preferentially preserved, the Commission shall notify the Building Commissioner, in writing within five (5) working days of the hearing and the Building Commissioner may issue a demolition permit upon receipt of the written decision.

3.7 If after a public hearing the Commission determines that the significant building should be preferentially preserved, the Commission shall so notify the Building Commissioner in writing within five (5) working days of the hearing, and no demolition permit may be issued until six (6) months after the date of the determination by the Commission.

3.8 Notwithstanding anything contained in paragraph 3.7, the Building Commissioner may issue a demolition permit for a preferably preserved building at any time after receipt of written advice from the Commission to the effect that either:

(i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or

(ii) the Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

Section 4. Responsibility of Owners
It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property and securing the premises; for participating in the investigation of preservation options and for actively cooperating in seeking alternatives with the Commission and any interested parties.

Section 5. Emergency Demolition
Nothing in this by-law shall restrict the Building Commissioner from immediately ordering the demolition of any building in the event of imminent danger to the safety of the public.

Section 6. Enforcement and Remedies
The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this by-law for a period of two (2) years after the date of the completion of such demolition. As used herein, “premises” refers to the parcel of land upon which the demolished significant building was located and all adjoining parcels of land under common ownership or control.

Section 7. Historic District Act
Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

Section 8. Severability
In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Town of Framingham By-Laws, Article VII. "Signs and Districts"

Section 5. Historic Districts

[Article 51, voted by Town Meeting: Town Meeting May 10, 1978]
[Approved by Attorney General: August 6, 1978]
[Amended: Articles 14 & 15, Annual Town Meeting, April 13, 1994]
[Approved by Attorney General: August 23, 1994]
[Amended: Articles 23 and 24, Annual Town Meeting, April 12, 1995]
[Approved by Attorney General: June 14, 1995]
[Amended: Articles 5, 6 and 7, Annual Town Meeting, April 25, 2006]
[Approved by Attorney General: September 26, 2006]
[Amended: Article 10, Annual Town Meeting, April 29, 2008]

5.1 Historic District Commission

There is hereby established under the Historic Districts Act, Massachusetts General Laws, Chapter 40C to be governed by and operated in accordance with the provisions relative thereto of the General Laws or any special act or amendment thereto, a Framingham Historic District Commission, consisting of seven (7) members to be appointed by the Board of Selectmen including one (l) member from two (2) nominees submitted by the Historical Society, one (1) architect from two (2) nominees submitted by the Greater Boston Real Estate Board, one (1) lawyer from two (2) nominees submitted by the South Middlesex Bar Association, one (1) land owner resident in the Historic District and two (2) members at large. There shall be five (5) alternates selected, one from each of the above specific categories. In the event any member shall be absent or unable to act for any reason, the Chairman shall designate an alternate member to act.

Each member or alternate member of said Commission shall be a resident of the Town of Framingham, and any such member removing his residence from the Town shall be considered thereby to have resigned as a member of the Commission. If within 60 days after submission of a written request for nominees to any of the organizations herein named, no such nominations have been made, the Board of Selectmen may proceed to appoint the Commission without nominations by such organizations.

5.2 Boundaries of Historic District

There is hereby established under provisions of and in accordance with the Historic District Act, one historic district to be known as the Framingham Center Common Historic District, bounded and described as shown on the map entitled "Framingham Center Common Historic District" available at the Planning Department of the Town; to establish a new Historic District to be known as the Jonathan Maynard Historic District, bounded and described on the map entitled "Jonathan Maynard Historic District" available at the Planning Board Office.

5.3 Power and Duties

The Commission shall have, in addition, to the powers and duties of an Historic District Commission as described in Chapter 40C, the following further powers and duties, subject to appropriation or receipt of money gifts, and may in exercise of any of its powers or duties accept and expend such gifts and employ clerical and technical assistants or consultants.

5.3.1 To propose from time to time, as it deems appropriate, the establishment, in accordance with the provisions of the Historic Districts Act, of additional historic districts and changes in historic districts;

5.3.2 To cooperate with, consult, and advise the Planning Department, the Redevelopment Authority, and other Town agencies and departments in matters involving historic sites, building, and districts; and

5.3.3 To offer assistance and advice to owners of buildings in any historic district on problems of construction, reconstruction, restoration, and preservation.

5.4 Rules and Regulations

The Commission shall adopt the rules and regulations for the conduct of its business, not inconsistent with the provisions of the Historic Districts Act. A copy of the rules and regulations and any amendment shall be filed with the Town Clerk.

5.5 Certificate of Appropriateness: Time of Decision

The Commission shall render a decision under the provisions of the Historic Districts Act within 45 days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, or within such further time as the applicant may, in writing, allow.

5.6 Exclusions

The Commission shall have no jurisdiction to review the following categories of exterior architectural features:
(a) Temporary structures erected for a period of ninety days or less;
(b) Two dimensional signs of four (4) square feet or less;
(c) Terraces, walks, driveways, and sidewalks so long as such structure is substantially at grade level;
(d) Storm doors, storm windows, screens, gutters, antennae, and window air conditioners;
(e) Color of paint;
(f) Color of roof materials.

5.7 Properties Included in the Framingham Centre Common Historic District

5.71

1. Framingham Center Common
2. Village Hall
3. Memorial Library
3a. Civil War Monument
4. Capt. Eliphalet Wheeler House, 18 Vernon Street
5. The Jonathan Maynard School, 14 Vernon Street
6. Framingham Academy, 16 Vernon Street
7. First Parish Church, 24 Vernon Street
8. First Parish House, 24 Vernon Street
9. Plymouth Church, 87 Edgell Road
10. Otis Boynton House, 85 Edgell Road
11. The Crane House, 65 Edgell Road
12. The O'Brien House, 63 Edgell Road
13. The Grossman House, 61 Edgell Road
14. The Shawmut Bank Branch, 39 Edgell Road
15. The Framingham Trust Co. Branch, 35 Edgell Road
16. Plymouth Parsonage, 125 Edgell Road
17. The Williams House, 121 Edgell Road
18. The Johnson House, 151 Edgell Road
19. The Brandolini House, 2 Auburn Street
20. The Dorr House, 4 Auburn Street
22. Newsclipping Service, 5 Auburn Street
23. The Maddocks House, 6 Vernon Street
24. The Clark Builders Trust, 8 Vernon Street
25. The Rinaldo House, 31 Grove Street
26. The Merser House, 33 Grove Street
27. The Tarbox House, 4 Warren Place
28. The White's House, 3 Warren Place
29. The Stalker House, 8 Warren Place
30. The Larson House, 11 Warren Place
31. The George A. Weeks House, 122 Edgell Road
32. The General George Henry Gordon House, 936 Central Street
33. The Whitney-Wiggins House, 10 Auburn Street
34. The Train-Vernon House, 20 Vernon Street

5.8 Properties Included in the Jonathan Maynard Historic District

5.81

1. First Baptist Church, built 1826
2. William T. Buckminster House, 48 Pleasant Street, built before 1832
3. Dr. John Osgood House, 64 Pleasant Street, built between 1832 and 1850
4. Goldberg House, 155 Maynard Road, 1894
5. Cyrus Blake House, 79 Pleasant Street, built before 1832
6. Mason House, 153 Maynard Road, 1984
7. Ira Mitchell House, 89 Pleasant Street, built before 1832
8. Marion Adams House, 100 Pleasant Street, built 1890-1905
9. Blanche Partridge House, 111 Pleasant Street, built l917
10. "Little Maynard", 198 Maynard Road, built 1901
11. Dexter Esty House, 108 Pleasant Street, built between 1832 and 1850
12. Capt. Charles Williams House (Jonathan Maynard House), 113 Pleasant Street, c. 1760
13. Henry Orne Stone House, 120 Pleasant Street, circa 1840's
14. Judge Blodgett House, 129 Pleasant Street, 1915-16
15. Kelly House, 130 Pleasant Street, 1915-16
16. Boudrot House, 139 Pleasant Street, 1974
17. Jesse Belknap House, 138 Pleasant Street, built between 1832 and 1850
18. TO BE BUILT, Spring 1994, Contemporary, 149 Pleasant Street
19. Rev. L. R. Eastman House, 154 Pleasant Street, built between 1850 and 1872
20. Roessler House, 159 Pleasant Street, 1993
21. Rock House, 2 Aspen Circle, 1980
22. Thorup House, 165 Pleasant Street, 1993
23. Obed Winter House, 176 Pleasant Street, circa 1850
24. H. Twombly House, 169 Pleasant Street, built before 1832
25. Lockhart House, 198 Pleasant Street, 1955
26. Wagner House, 179 Pleasant Street, 1993
27. Jacob B Winchester House, 200 Pleasant Street, built between 1832 and 1850
28. Davis House, 187 Pleasant Street, built between 1872 and 1895
29. J. J. Valentine House, 208 Pleasant Street, built between 1840 and 1849
30. George Newell House, 201 Pleasant Street, before 1832
31. G. R. Brown House. 216 Pleasant Street, circa 1851-60
32. The George Phipps House, 41 Pleasant Street, to include the entire presently existing dwelling on a parcel consisting of not less than 25,000 square feet of land and having not less than 65 feet of frontage on Pleasant Street
33. The Mancall House, 45 Pleasant Street
34. The Pearl House, 47 Pleasant Street
35. Now or formerly of McCarthy or Brossi, 49 Pleasant Street
36. The Glickman House, 51 Pleasant Street
37. The Brostrom House, 55 Pleasant Street

5.9 Properties Included in the Sarah Clayes Historic District

5.91

1. The Sarah Clayes House, 657 Salem End Road

APPENDIX 10 - PUBLIC WAY ACCESS PERMITS

Town of Framingham By-Laws, Article VI. "Roads, Highway, Bridges, Rubbish Disposal, Water and Sewer" Section 8 Public Way Access Permits

[Adopted: Article 17, Special Town Meeting of December 11, 1996]
[APPROVED BY ATTORNEY GENERAL]

A. Purpose.
It is the purpose of this By-Law to provide for the review of Public Way Access Permit applications and to establish procedures for the predictable, timely, and uniform review of such applications so as to ensure public safety. These procedures apply to Public Way Access Permit applications for: (1) a new access to a public way; (2) physical modifications to an existing access to a public way; (3) use of a new or an existing access that generates a substantial increase in or impact on traffic on a public way.

B. Definitions.
In this By-Law, the following terms shall have the meanings prescribed below:

(a) "Modification" shall mean any alteration of the physical or traffic operational features of the access.

(b) "Substantial" increase in or impact on traffic shall mean that generated by a facility or land use served by an access which meets or exceeds any of the following thresholds; (i) Residential, including hotels, motels, lodging houses and dormitories: any increase to the existing certificate of occupancy of more than 25 persons; (ii) Residential (including subdivisions): 50 vehicular trips per day as defined in the ITE Trip Generation Manual, 5th Ed. In the case of subdivisions of land the estimated trip generation for each lot in the subdivision shall be combined in determining whether or not the thresholds set forth in this paragraph have been met; (iii) Nonresidential: 250 vehicular trips per day as defined in said Manual; (iv) Nonresidential: 25 new parking spaces; (v) Nonresidential: 5,000 new square feet. (c) "Public way" shall mean all roadways other than state numbered highways as defined in MGL Chapter 81 section 21.

C. Submittal of Permit Application
The Director of Public Works or the Planning Board shall be responsible for the review of a Public Way Access Permit application according to the following criteria:

(1) Applicants whose proposed action would not otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning By-Law, General By-Laws, or Rules and Regulations shall submit a request for a Public Way Access Permit to the Director of Public Works.

(2) Applicants whose proposed action would otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning By-Law, General By-Laws, or Rules and Regulations shall submit a request for a Public Way Access Permit to the Planning Board.

A permit applicant shall request issuance of a permit on a standard form supplied by the appropriate Board/Department. A permit application shall be deemed complete only after the following items have been submitted: (1) standard application form; (2) evidence of compliance with the Massachusetts Environmental Policy Act by the Executive Office of Environmental Affairs of the Commonwealth, if determined to be necessary; (3) engineering plans acceptable to the Board/Department, where required by the Board or Department. The Board/Department, by regulation, may adopt a schedule of reasonable fees to accompany said application.

D. Procedures of the Director of Public Works
(1) Application for a Public Way Access Permit shall be made to the Director of Public Works. Where an application is deemed complete, including certification of notification to immediate abutters, the Director shall review said application with respect to safety or appropriateness of the proposed access and, except when the proposed access would result in generating a substantial increase in or impact on traffic as defined in Subsection B, shall render a decision within 30 working days by filing same with the Town Clerk.

(2) Where the Director of Public Works denies said application, he/she shall state specific findings for the denial in the decision.

(3) Any person who is aggrieved by the decision of the Director of Public Works may file an appeal with the Town Clerk within 21 days of the date of decision. The Board of Selectmen shall hold a public hearing on the appeal according to the procedure indicated in Subsection H.

(4) Where an application for a Public Way Access Permit is for an access that would result in generating a substantial increase in or impact on traffic as defined in Subsection B, the Director shall review said application with respect to the safety or appropriateness of the proposed access and make a recommendation to the Board of Selectmen within 30 working days. The Board of Selectmen shall hold a public hearing according to the procedure indicated in Subsection H.

E. Procedures of the Planning Board.

(1) The Planning Board shall advertise and hold a public hearing on an application for a Public Way Access Permit, when deemed complete, concurrent with any public hearing required for the proposed project in accordance with any applicable Zoning By-Law, General By-Laws, or Rules and Regulations. Review and comment regarding the safety or appropriateness of the proposed access may be made by any department or consultant submitting a report to the Planning Board.

(2) Following the close of the public hearing, the Planning Board shall make a decision on the Public Way Access Permit application in accordance with the timetable for its decision on the proposed project under any other applicable Zoning By-Law, General By-Laws, or Rules and Regulations and filing same with the Town Clerk.

(3) Where the Planning Board denies said application, it shall state specific findings for its denial in its decision.

F. Powers of the Director of Public Works, the Planning Board, and the Board of Selectmen

(1) The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may deny the issuance of a Public Way Access Permit due to the failure of the applicant to provide sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and/or use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.

(2) The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may, in the alternative, impose conditions upon a Public Works Access Permit to facilitate safe and efficient traffic operations, to mitigate traffic impacts, and to avoid or minimize environmental damage during the construction period and throughout the term of the Permit. Such conditions may include, but not be limited to: (a) necessary limitations on turning movements; (b) restrictions on the number of access points to serve the parcel; (c) vehicle trip reduction techniques; (d) necessary and reasonable efforts to maintain existing levels of service; (e) design and construction of necessary public way improvements by the permittee; (f) reimbursement by the permittee of costs to town inspection of public way improvement work.

(3) Variance. Where site or access conditions do not allow the proposed access to meet the permit or design standards normally applicable under this By-Law, the Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may vary application of the design standards on a case by case basis, upon the finding that: (a) for either a private applicant or a governmental entity, there are no reasonable available alternatives which would allow access in compliance with these standards, in which case the applicant must commit to provide measures to mitigate impacts to traffic and operational safety which the Director of Public Works or the Planning Board or the Board of Selectmen determines are necessary, or (b) as an alternative procedure for a governmental entity only, the variance is necessary to accommodate an overriding municipal, regional, or state public interest, including the avoidance or minimization of environmental impacts.

G. Access Permit Provisions

(1) Construction under the terms of a Public Way Access Permit shall be completed within two years of the date of issue, unless otherwise stated in the Permit. The Director of Public Works or the Planning Board or the Board of Selectmen may extend the Permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.

(2) If the Director of Public Works or the Planning Board or the Board of Selectmen determines that a Public Way Access Permit condition has not been complied with, the Director/Board may suspend or revoke the Permit if, after notice to the permittee of the alleged noncompliance, seventy-two (72) hours have elapsed without compliance.

(3) The Director of Public Works or the Planning Board or the Board of Selectmen may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work or $50,000.00, whichever is lesser. The performance bond shall be posted prior to the issuance of the permit.

(4) The Director of Public Works or the Planning Board or the Board of Selectmen may issue written orders or regulations to carry out or enforce the provisions of this By-Law.

H. Appeal to the Selectmen

The Board of Selectmen shall hold a public hearing on (1) any appeal by an aggrieved party from a decision of the Director of Public Works, within 30 working days of the date the appeal was filed with the Town Clerk, and (2) any recommendation made by the Director of Public Works pertaining to a proposed access that would result in generating a substantial increase in or impact on traffic, within 30 working days of the date the recommendation was made. Notification of the public hearing shall be in accordance with the procedures and timetable set forth in Section V. L. of the Zoning By-Law. The decision of the Board of Selectmen shall be rendered within 21 working days of the close of the public hearing. A majority vote of the members of the Board of Selectmen shall be required to render a final decision. In rendering its decision, the Board of Selectmen shall consider, in accordance with this By-Law, the safety or appropriateness of the proposed access. The Board of Selectmen may then decide to affirm, modify, or rescind the decision/recommendation of the Director of Public Works by filing same with the Town Clerk.

APPENDIX 11 – ADMINISTRATION OF THE SCENIC ROAD ACT

Town of Framingham By-Laws, Article VI. "Roads, Highway, Bridges, Rubbish Disposal, Water and Sewer" Section 10 Administration of the Scenic Road Act

[Adopted: Article 20, Special Town Meeting of November 19, 2002]
[APPROVED BY ATTORNEY GENERAL, JANUARY 27, 2003]

Section 10. **Administration of the Scenic Road Act**

10.1 Purpose

The purpose of this Bylaw is to protect the scenic quality and character of Town roads designated as Scenic Roads by establishing rules and regulations governing local administration of the Scenic Road Act, M.G.L. Ch. 40, s. 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, or paving of roads that have been designated as a scenic road by a city or town. The Town has adopted these regulations with the following objectives:

a. To maintain the natural beauty and scenic qualities along scenic roads in the Town of Framingham.

b. To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.

c. To implement more fully the provisions of the Scenic Road Act, M.G.L. Ch. 40, s. 15C.

10.2 Statutory Provisions of the Scenic Road Act

"Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway, as a scenic road.

After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board, or if there is not planning board, the Selectmen of the town, or the city council of a city, after a public hearing duly advertised twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing; provided, however, that when a public hearing must be held under the provisions of this section and under section three of Chapter eighty-seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board, or if there is no planning board, the selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the Tree Warden or his deputy as provided in said section three of Chapter eighty-seven."

10.3 Procedure to Designate a Road as a Scenic Road

The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, the Historic District Commission or the citizens of the Town of Framingham by petition (consistent with petition requirements to place an article on the warrant) may propose "scenic road" status for any road in the Town of Framingham, other than a numbered route or state highway.

The Planning Board shall hold a Public Hearing on the proposal or petition, notifying the Selectmen, the Tree Warden, the Superintendent of Streets, the Conservation Commission, the Historical Commission and the Historic District Commission and shall advertise the hearing twice in a newspaper of general circulation; the first advertisement at least fourteen days prior to the date of the public hearing and the last publication to occur at least seven days prior to the date of such hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of the proposed road as a scenic road.

A majority vote of Town Meeting is required for designation of a road as a scenic road. Such designation shall be effective as of the date of Town Meeting action. Any work on any portion of the right-of-way of a scenic road, which

was not physically commenced at the time the road was designated by Town Meeting as a scenic road, shall conform to these regulations.

10.4 Roads Subject to the Provisions of the Scenic Road Act

A list of Scenic Roads of the Town of Framingham follows. Streets designated by Town Meeting include the streets in their entirety unless designated otherwise. This list may be subject to revisions or additions from time to time via Town Meeting action. Scenic Roads are regulated by M.G.L. Ch. 40, s. 15C, and M.G.L. Ch. 87, s. 3.

10.4.1 Roads designated by Article 83 of the April 17, 1974 Annual Town Meeting are as follows:

Belknap Road (Pleasant St. to 300 ft. West of Grove St. and from about 850 ft. East of Grove St. to Edgell Rd)

Bethany Road (Winthrop Street to Ashland Line)

Central Street (Edgell Road to Concord Street)

Dennison Avenue	**Edmands Road**	**Grove Street**
Hemenway Road	**Lake Road**	**Lakeview Road**
Mill Street	**Millwood Street**	**Nixon Road**
Parker Road	**Prindiville Avenue**	

Salem End Road (Winter Street to Ashland Line)

Singletary Lane	**Warren Road**

Winter Street (Salem End Road to Fountain Street)

10.4.2 Roads designated by Article 15 of the November 12, 1974 Special Town Meeting are as follows:

Auburn Street	**Auburn Street Extension**	**Barber Road**
Edgell Road	**Fenwick Street**	**Kellogg Street**
Main Street	**Mansfield Street**	**Maple Street**
Merchant Road	**Parmenter Road**	**Pond Street**
Prospect Street	**State Street**	**Wayside Inn Road**
Winch Street		

10.5 Definitions

In the absence of contrary meaning established through legislation or judicial action pursuant to MGL Chapter 40, Section 15C, these terms contained in that statute shall be construed as follows:

10.5.1 "Cutting or removal of trees" shall mean the removal of one or more trees, trimming of major branches or cutting of roots. "Cutting or removal of trees" shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees or thinning out of overcrowded trees as determined by the Tree Warden. "Cutting or removal of trees" shall include such cutting, trimming or removal as a primary activity, as well as such cutting, trimming or removal done in contemplation of, or following, repair, maintenance, reconstruction or paving work for a road or driveway or sidewalk.

10.5.2 "Repair, maintenance, reconstruction, or paving work" shall mean any work done within the right of way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is also included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line-of-sight shall also be included in this definition.

10.5.3 "Road" shall mean the entire right of way including, but not limited to, a vehicular traveled way plus its necessary appurtenances within the right-of-way including bridge structures, drainage systems, retaining walls, traffic control devices, pedestrian facilities and the air space above them, but not intersecting streets or

driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or outside of the right-of-way, the trees and stone walls shall be presumed to be within the right of way until the contrary is shown.

10.5.4 **"Stone walls"** shall not be construed to include assemblages of stone involving less than one cubic foot of wall material per linear foot nor totaling less than five feet in length. All stone walls within the entire right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the stone wall is within such right-of-way of the scenic road, it shall be taken to be within the right-of-way and within the coverage of these rules and regulations until the contrary is shown.

10.5.5 **"Tearing down or destruction of stone walls"** shall include both temporary and permanent removal. Temporary removal of limited portions of stone walls, to be followed by replacement of the disturbed portion of the wall within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under subsection 10.9.

10.5.6 **"Trees"** shall include any living tree (not bushes) whose trunk has a diameter of three inches or larger at one foot above the ground. All trees within the right-of-way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the tree is within the right-of-way of the scenic road, it shall be taken to be within the coverage of these rules and regulations until the contrary is shown.

10.6 Design Standards

10.6.1 Consistency with Town Standards

Street and driveway construction standards shall be consistent with current standards for streets, driveways and curb cuts, as set forth in the Zoning By-Law, the Town Bylaw, and the Subdivision Rules and Regulations, all as amended.

10.6.2 Curb Cuts

Each lot fronting on a scenic road shall generally have one driveway curb cut. The traveled width of a driveway for a single home shall not exceed twelve feet for a single family home or fourteen feet for a common driveway. The use of common driveways is encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Framingham.

10.6.3 Stone Wall Removal Limitations

a) The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall plus three feet on either side.

b) Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.

c) No wall shall be cut without construction of an appropriate terminus.

d) In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.

e) Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.

10.6.4 Tree Removal Limitations

a) No tree with a trunk exceeding 8 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.

b) No cluster of trees located within 6 feet of each other, with individual trunks exceeding 6 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.

c) For each tree with a trunk exceeding 6 inches in diameter, one foot above ground level, that is removed, a

tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted.

10.6.5 Waivers

The Planning Board may waive the design standards, as set forth under this subsection 10.6 herein, if it finds that the waiver is consistent with the considerations and intent of subsection 10.8. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.

10.7 Procedures

10.7.1 Filing

Any person or organization seeking consent of the Planning Board under MGL c. 40, Section 15C, (the Scenic Road Act) regarding the cutting or removal of trees or the temporary (except as provided for under subsection 10.9 herein) or permanent tearing down or destruction of stone walls, or portions thereof, in connection with the repair, maintenance, reconstruction or paving work (as defined in Section 10.5) on scenic roads, shall submit a written request to the Planning Board together with the following:

a) A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls (six copies). At a minimum, such plan shall be to scale (preferred scale is 1” = 40’) and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall.

b) A statement of the purpose(s) for the changes.

c) A certified list of abutters to include the owners of all property within 500 feet of the proposed work on the scenic road whose property have frontage on the affected scenic road. The list is to be obtained from the Assessors Office and should reflect their most current records.

d) Photographs of the existing site showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant.

e) Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board.

f) Except in the case of Town agencies, the applicable filing fee shall be paid. The applicant shall also bear the cost of hearing notification.

Notice of submittal shall be filed with the Town Clerk and a copy of the submittal transmitted to the Tree Warden and other Town Departments, after the submittal is accepted by the Planning Board as a complete application and it is signed as such by the Planning Board or its staff.

10.7.2 Tree Warden

Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL c. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden or the reverse, nor shall execution of this chapter in any way lessen the Tree Warden's duties as allowed, under MGL c. 87.

10.7.3 Notice

a) The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area, the last publication at least 7 days prior to the public hearing. This notice shall contain a statement as to the time, date, place and purpose of the hearing, with a description of the action proposed by the applicant. Copies of this notice shall be sent to the applicant, the Selectmen, the Tree Warden, the Town Engineer, the Department of Public Works, the Conservation

Commission, the Historical Commission, the Historic District Commission and to the property owners on the certified list of abutters as set forth in subsection 10.7.1.c. Notice shall also be posted with the Town Clerk, and at the Planning Board office.

b) The applicant shall post a Community Notice sign on the property in a conspicuous location at the street frontage at least 7 days prior to the Public Hearing. The sign shall indicate the date, time and location of the Scenic Road Public Hearing before the Planning Board, and the specific nature of the hearing. This sign shall be no less than 2 square feet in size, nor more than 3 square feet in size

c) In the event that the Planning Board holds a joint hearing with the Tree Warden, acting under MGL c. 87, the advertisement shall be made jointly by the Planning Board and the Tree Warden.

10.7.4 Timing

The Planning Board shall hold a public hearing within 45 days from the date on which the Planning Board's notice of submittal is received by the Town Clerk, unless the applicant agrees, in writing, to an extension of time.

10.7.5 Decision

a) In rendering its decision, the Planning Board shall consider the application based on compliance with the Scenic Road Act and the considerations set forth in Section 10.8.

b) The Planning Board may require sufficient bond to be posted to cover the costs of required work within the road right-of-way and to protect existing vegetation and stone walls. Such bonding shall be specified in the Board's decision.

c) The decision of the Planning Board shall be filed with the Town Clerk within thirty days of the close of the public hearing, unless the applicant agrees, in writing, to an extension of time; copies of which shall be sent to the applicant, the Selectmen, the Tree Warden, the Building Inspector, the Town Engineer, the Department of Public Works, the Conservation Commission, the Historical Commission, the Historic District Commission and those persons who have requested a copy of the decision.

d) An applicant shall have two years to undertake implementation of a decision of the Planning Board under these regulations, after which time such decision shall be void.

10.8 Considerations

The Planning Board shall consider the following items in rendering a decision with regard to a scenic road application:

a. Preservation of historic features;

b. Protection of natural resources and environmental features;

c. Preservation of scenic and aesthetic characteristics;

d. Public safety;

e. Compatibility with surrounding neighborhood;

f. Compensatory actions proposed, such as replacement of trees and replacement or repair of walls.

10.9 Informal Filing and Review Procedures

10.9.1 Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.

10.9.2 The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.

10.9.3 Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.

10.9.4 Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion together with dated photographs of the restored wall.

10.9.5 Violations of an approval under this subsection shall be subject to enforcement under subsection 10.10.

10.10 Enforcement

10.10.1 Filing and Restoration Requirement

Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval from the Planning Board and in violation of this bylaw will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square-inch per square-inch basis at locations specified by the Planning Board. A square-inch per square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured 1 foot above ground level.

10.10.2 Compliance

Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including, but not limited to, the enforcement of the bonding and restoration as detailed above.

10.10.3 Penalty

Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of the scenic road in violation of this Section may be subject to a fine of not more than three hundred dollars ($300.00), as set forth under the Scenic Road Act, MGL Ch. 40, Sec.15C. Each day that a violation continues shall constitute a separate offense, until a filing in accordance with subsection 10.10.1 has been made, with continued progression toward a good faith effort for restoration.

10.10.4 Enforcement Authority

The Planning Board, the Building Commissioner and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.